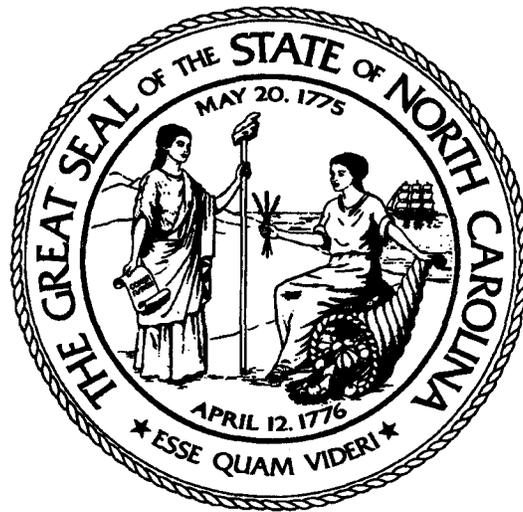


**LEGISLATIVE
RESEARCH COMMISSION**

COMMITTEE ON THE JUVENILE CODE



**REPORT TO THE
1995 GENERAL ASSEMBLY
OF NORTH CAROLINA**

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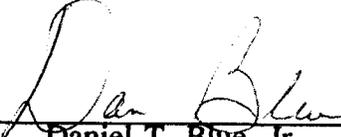


January 11, 1995

TO THE MEMBERS OF THE 1995 GENERAL ASSEMBLY:

The Legislative Research Commission herewith submits to you for your consideration its final report on the Juvenile Code. The report was prepared by the Legislative Research Commission's Committee on the Juvenile Code pursuant to G.S. 120-30.17(1).

Respectfully submitted,


Daniel T. Blue, Jr.
Speaker of the House


Marc Basnight
President Pro Tempore

Cochair
Legislative Research Commission



1993-1994

LEGISLATIVE RESEARCH COMMISSION

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PREFACE

The Legislative Research Commission, established by Article 6B of Chapter 120 of the General Statutes, is the general purpose study group in the Legislative Branch of State Government. The Commission is cochaired by the Speaker of the House and the President Pro Tempore of the Senate and has five additional members appointed from each house of the General Assembly. Among the Commission's duties is that of making or causing to be made, upon the direction of the General Assembly, "such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner" (G.S. 120-30.17(1)).

The Legislative Research Commission, prompted by actions during the 1993 Session, has undertaken studies of numerous subjects. These studies were grouped into broad categories and each member of the Commission was given responsibility for one category of study. The Cochairs of the Legislative Research Commission, under the authority of G.S. 120-30.10(b) and (c), appointed committees consisting of members of the General Assembly and the public to conduct the studies. Cochairs, one from each house of the General Assembly, were designated for each committee.

The study of the Juvenile Code would have been authorized by Section 2.1(67) of House Bill 1319 (2nd edition) which passed both chambers but inadvertently was among the bills not ratified at the end of the 1993 Session. Part II of House Bill 1319 would allow the Legislative Research Commission to consider House Joint Resolution 1429 in determining the nature, scope and aspects of the study. Section 1 of House Joint Resolution 1429 reads in part: "The Legislative Research Commission may study the Juvenile Code to determine whether it needs amending or complete rewriting." The relevant portions of House Bill 1319 (2nd edition) and House Joint Resolution 1429 are included in Appendix A. The Legislative Research Commission authorized

this study under authority of G.S. 120-30.17(1) and grouped this study in its Family and Juvenile Law area under the direction of Senator Frank Ballance. The Committee was chaired by Senator Roy Cooper and Representative Robert Hensley. The full membership of the Committee is listed in Appendix B of this report. A committee notebook containing the committee minutes and all information presented to the committee is filed in the Legislative Library.

COMMITTEE PROCEEDINGS

February 4, 1994

The initial meeting of the Committee was held with Senator Roy Cooper presiding. Following introductions of the Committee members and staff, Senator Cooper reviewed the Committee's charge - to determine whether the Juvenile Code needs amending or needs to be completely rewritten. Senator Cooper urged the Committee to take an in-depth look at the juvenile justice system, to analyze its faults and take note of its successes.

Representative Robert Hensley, co-chair of the Committee, presented an historical perspective of the juvenile justice system. Representative Hensley noted that the current version of the Juvenile Code was adopted in 1979, and was the product of two years of study by the Juvenile Code Revision Committee. Gwendolyn Chunn, Director of the Division of Youth Services in the Department of Human Resources, gave an overview of the Division. She reviewed programs for at-risk and troubled children, including the Governor's One-on-One program, the Eckerd Wilderness Camps, and the Community Based Alternative Programs. Ms. Chunn discussed secure and non-secure detention, indicating that about nine programs are funded that are called non-secure detention programs. These are programs that provide for intensive court supervision of juveniles whose parents will guarantee that those juveniles will appear at adjudicatory and dispositional hearings, and participants are provided with enough home supervision to minimize the probability that they will re-offend. The secure detention facilities operated by the State are small, with the largest housing only about 24 juveniles. Ms. Chunn noted that lately there has been a backlog of juveniles in secure detention who have already received disposition, and have been committed to training schools but are

awaiting transportation. She reported that of approximately 5,000 annual admissions to secure detention, some 3,000 are new admissions.

Ms. Chunn also provided information regarding the State's training schools, and discussed the special programs that exist at some of the schools. The training schools have an average daily population of around 650, and on February 3, 1994 the population was 734. The Division of Youth Services has begun to do classification screening that will look at moving juveniles who have committed the least serious offenses back into the community on a transitional basis with a stepped-down program.

Janet Mason, a member of the faculty at the Institute of Government, provided an overview of the Juvenile Code along with a summary of 1993 legislation in the area of juvenile law.

August 18, 1994

Senator Roy Cooper presided over the second meeting of the Committee. Thurman Hampton, Secretary of Crime Control and Public Safety, was recognized to speak to the Committee regarding House Bill 28 (An Act to Provide for the Transfer of Certain Juveniles to Superior Court), which was introduced in the 1994 Extra Session.

Secretary Hampton cited several cases involving thirteen and fourteen year old violent offenders. In many of those cases, the offenders were adjudicated delinquent in juvenile court and must be released from confinement at age 18. Secretary Hampton indicated that House Bill 28 was an attempt to make juvenile offenders accountable for their actions and to impose appropriate punishment. The bill would have required the

transfer of a juvenile 14 years old or older upon a finding of probable cause, if the alleged offense would be a Class A-E felony if committed by an adult. Under existing law, transfer is required only upon probable cause for a Class A felony. The bill would also have allowed a district court judge to transfer the case of a juvenile 13 years old if the alleged offense would be a Class A-E felony if committed by an adult and the judge finds probable cause. A subsequent version of the bill would have required the mandatory transfer to superior court of a violent felony, for which probable cause is found, committed by a juvenile 14 years old or older; it would have retained discretionary transfer for other felonies.

Committee Counsel noted that effective May 1, 1994, the age at which juveniles may be transferred to superior court for trial as an adult has been lowered from 14 to 13 years of age. Transfer is mandatory for a Class A felony upon a finding of probable cause, and is discretionary for other felony offenses. This Committee on the Juvenile Code was authorized to study the issue of whether district court should be mandated to transfer jurisdiction of juveniles who have committed certain serious or violent felony offenses to superior court for trial as adults, upon a finding of probable cause. The Committee was also authorized to study the issue of the proper age of juveniles mandatorily transferred to superior court for trial as adults (Appendix A-3).

Members of the Committee expressed concerns regarding mandatory transfer without regard to characteristics of the offender or the specific offense, and noted the fact that district attorneys have the discretion to seek transfer of juvenile offenders to Superior Court. No evidence was presented to indicate that transfer requests made by prosecutors are being denied.

Representative Karen Gottovi asked the Committee to consider a bill she introduced during the 1994 Extra Session. If it had passed, House Bill 65 would have authorized the Committee to study the needs of runaway juveniles and the feasibility of raising the age of undisciplined juveniles to eighteen years. According to Representative Gottovi, North Carolina is one of two states that does not include within the provisions of the Juvenile Code juveniles 16-18 who are beyond parental control. Under North Carolina law, any unemancipated child under the age of 18 is subject to his parent's control, but in order for a parent to regain that control after a child leaves home, the parent must file a civil action and get a court order. (A summary of the law relating to undisciplined juveniles and parental control is included in this report as Appendix C). Several parents spoke to the Committee about their runaway teens and problems with substance abuse. The families obtained help at treatment facilities in Georgia; they urged that North Carolina laws be changed to make it easier for families with undisciplined or runaway teens to get help, particularly those with substance abuse problems.

The Final Report of the Juvenile Secure Custody Study was recently completed by the Administrative Office of the Courts and the Department of Human Resources. Dr. LeAnn Wallace, Co-Administrator for Research and Planning with the Administrative Office of the Courts, explained that the study was authorized by the General Assembly to determine whether juveniles committed to secure custody are being committed pursuant to the criteria in the Juvenile Code, and to examine secure detention facilities to identify safety and capacity problems. The study examined secure custody orders issued in 1993, and examined information on both the nature and type of offense that was behind the detention. The Institute of Government analyzed the data and looked at trend data on juvenile arrests and delinquency petitions along with training school and detention facility data.

Gwendolyn Chunn, Director of the Division of Youth Services, Department of Human Resources, discussed some changes she would like to see in the Juvenile Code. Ms. Chunn suggested that responsibility for detention be placed with the court system because it is at the discretion of the court that a child is placed in detention and it is at the discretion of the court when a child is released from detention. In the case of training schools, the courts may commit a juvenile to a training school but the Department of Human Resources has some input into when that juvenile is released. Chunn said that it is difficult to manage a system when the manager has no control over the flow of juveniles into and out of the system. Chunn indicated that current law requires the Department of Human Resources to provide a "needs assessment" on all children who are held in detention, but that funds have not been made available to meet the requirement. Once that process is begun, it is hoped that the Department can begin to identify and address some of the issues that keep children coming back into the system over and over again.

September 8, 1994

Along with representatives from the Governor's Office and the Administrative Office of the Courts, the Committee and its staff toured the C.A. Dillon School in Butner and the Wake County Juvenile Detention Center in Raleigh. Gwendolyn Chunn, Director of Youth Services, Department of Human Resources, accompanied the group and coordinated the visits.

C.A. Dillon School is a maximum security juvenile correctional institution that provides male students with the kind of education that is comparable to the traditional public school system. There are currently 99 students, who upon entering Dillon were given a comprehensive medical, psychological and educational evaluation. Each student is

placed in the Structured Therapeutic Environment Program (S.T.E.P.), which must be completed before the student can be considered for release. They are evaluated monthly by a "team" consisting of a psychologist, behavioral counselor, recreational counselor, and social worker.

The Wake County Juvenile Detention Center houses children who are sent there awaiting trial or pending disposition or transfer to one of the training schools. The facility receives juveniles ranging from 10 to 17 years of age.

September 30, 1994

N.C. Attorney General Michael Easley appeared before the Committee to present his views on the issue of juvenile crime. According to Mr. Easley, the Juvenile Code as written now does not work, and has not worked for some time. He noted that in the 1970s, when most state codes were written, most juvenile offenses were property crimes, vandalism, joy riding and shoplifting. Juveniles codes were written based on the premise that juveniles were not involved in violent crime. Today the reverse is true; juveniles are more violent today than adults. Information presented by the Attorney General on crimes committed by juveniles is included in this reported as Appendix E.

Attorney General Easley presented the following recommendations to the Committee:

- 1. Consider an entire new Juvenile Code based on fact not assumptions.** It is a myth that juveniles are less violent than adults. They are in fact more violent.

2. Fingerprint and photograph juveniles. It is necessary for crime solving, not only in this State, but in sharing information with other states.

3. Share the Confidentiality. If we don't share our confidentiality on juvenile records with other jurisdictions, they are not going to continue to share with us.

4. Look at drug treatment courts, not just for adults only but for juveniles. The drug use for juveniles 15 years old and under is up 81% since 1989. If this addiction is not broken now, those children will be graduating into adult crime. Reducing the amount of recidivism is vitally important.

5. Increase the penalties for illegal gun sales to minors. Over a five-year period, there has been a 213% increase in the use of firearms by juveniles. The penalty should be enhanced just as for selling illegal drugs to juveniles.

6. Consider real supervision - not just a phone call once a month to the residence of the juvenile to determine what they are doing, or how they are doing in school.

7. Go to violent offender or property crime offender face-to-face mediation for juveniles. The juvenile sits down with the victim and they determine with a mediator what penalty the juvenile will have to repay, to pay his debt to society.

8. Boot camps do work in certain situations - with juveniles being one of the places where they do work. This also includes drug treatment and shock incarceration where a juvenile is put in confinement for a short period of time.

9. Look at rehabilitation or rehabilitative incarceration. Look at incarcerating juveniles in a different way than in the past. Rehabilitation during incarceration is vital in an "earn and learn" your way out. For example, a juvenile would be incarcerated until he earns a G.E.D., until the drug habit is kicked, or until a set of goals set by the court is met. As these goals are met juveniles earn their way out of incarceration.

Stevens Clarke, of the Institute of Government made additional comments on the status of juvenile crime. He noted that although serious violent crime among young offenders has increased, the distribution of arrests with respect to age is not new, that is, the chance of being arrested tends to peak in the late teens and declines throughout life.

Mr. Clarke then presented information on the Juvenile Secure Custody Study as a follow-up to the prior meeting. Mr. Clarke explained that the study analyzed data on approximately 3700 instances of detention during the first ten months of 1993. It was found that most of the use of detention, including most of the use of the space in detention facilities, involved juveniles charged with crimes against persons or crimes against property or probation violations or in a very few cases, running away from home. Violent offenses altogether accounted for approximately 36% of the use of detention bed space in 1993. Property offenses accounted for about 32% of bed space in these facilities. Running away from home accounted for about 2.5%. The most common reason cited by the courts for use of this space was that the child needed to be held in secure custody pending placement in training school. This accounted for about 37%. The second most common reason, which accounted for about 24% of the use of space in detention facilities, was that the child was a felon and was considered dangerous to persons and/or property. According to the study, though most juveniles remain in detention for no longer than a few days, there a few who stay for a very long period of time. According to Mr. Clarke, during the 1991-93 period, 5% of juveniles

placed in detention stayed more than 60 days, some even stayed up to a year or more. Detention facilities were not designed for long-term care or confinement, and this 5% used 31% of the space. Comments from court counselors were solicited for the study. In the cases of juveniles who spent a very long time in detention, the court counselors indicated that they were struggling to find placements other than detention or training schools for juveniles who are perceived as dangerous or who have emotional problems that make it difficult to find other placement for them.

In summarizing other findings of the Secure Custody Study, Mr. Clarke told the Committee that for the last ten years, arrests for juveniles for criminal misconduct has been rising rapidly. From 1982-92 arrests increased 64% and filings of delinquency petitions in the Juvenile Division of District Court increased by approximately the same rate. As arrests go up, so do court cases. Despite this growth in arrests and petitions, Department of Human Resources data shows that the training school population stayed at about 700 from 1991-93. Monthly training school admissions did not increase during that time. In the detention facilities during that same period, the population increased by 37%. According to Mr. Clark, this is not because the number of juveniles put in detention each month has increased, in fact it has been decreasing, rather the median time spent in detention increased by approximately 81%. More juveniles are not being put into detention, the ones that are being put there are staying longer. That accounts for the increase in the detention population in recent years.

At the request of the Committee, Mr. Clarke then presented information on the pilot programs on raising the age limit for undisciplined behavior from 16 years to 18 years of age. The three counties involved in the pilot are Catawba, McDowell, and Bertie. The Administrative Office of the Courts is looking at the issue of whether older juveniles - 16 and 17 years old - are doing as well as younger juveniles under the

protective supervision of the court, and whether intensive supervision is working better than regular supervision for either age group. The study involves cases in which juveniles were placed in protective supervision for undisciplined conduct from October 1, 1993 through September 30, 1994. Preliminary findings indicate some speculation that the reason so few juveniles are being placed on protective supervision in the pilot counties is that court counselors believe that if a juvenile is 16 and is beyond parental control by running away, it is impossible to get a secure custody order for that 16 year old. Another obstacle seems to be that counselors feel that it is harder to work with 16 year olds than it is to work with younger children.

The Committee also heard from Charles Dean, Professor of Criminal Justice at UNC-Charlotte. Dr. Dean noted that in the past the juvenile justice system has focused on individuals, not offenses. He suggests that this is one of the things that the Committee needs to address. According to Dr. Dean, the juvenile justice system is now working for all juveniles in some counties, for most juveniles in all counties, but for a few juveniles in the urban counties and some rural counties it is not working. According to Dr. Dean, at this time the juvenile justice system is doing too much for too many and not enough for too few. The "too few" need to be identified. Dr. Dean made several suggestions for amendments to the Juvenile Code:

1. Expand the provision for waiver to adult court to include chronic juvenile offenders.

2. Handle both adult and juvenile petty offenders in one court and chronic adult and juvenile offenders in another.

3. Increase the age range for non-chronic juvenile offenders to 18, but refer all chronic offenders to adult court. Establish a juvenile "three strikes, you're in prison."

4. Adopt fixed sentences for chronic juvenile offenders.

5. Mandatory commitment for selected offenses by juveniles.

6. Develop, within the Division of Youth Services, a high security facility for chronic and violent offenders.

7. Create separate rules regarding confidentiality of records for chronic and non-chronic offenders and review confidentiality requirements that prevent collection of information needed to identify this group.

8. Clarify the Juvenile Code relative to behavior that constitutes a threat to persons or property in the community and what constitutes appropriate resources that must be exhausted before commitment, with aggravating and mitigating circumstances.

9. Begin intensive preventive treatment earlier for multi-problem, high risk youth who, if not provided this treatment, will become chronic offenders.

A copy of Dr. Dean's presentation to the Committee is included in this report as Appendix F. After additional discussion on the issue of the mandatory transfer of juveniles to superior court for all Class A through Class E felony offenses, the Committee decided not to recommend the change.

October 28, 1994

As a follow-up to information presented at the prior meeting, juvenile court counselors working with the pilot programs on undisciplined juveniles were invited to appear before the Committee.

In response to a question regarding whether the pilot program had successfully brought 16 and 17 year olds under supervision as undisciplined juveniles, Fred Elliott, a Juvenile Court Counselor from the pilot program in McDowell County, responded that there have been some successes. He indicated that they have been able to work with the older teens, but it has been related to traditional resources already in place. With the pilot program in a situation involving an undisciplined, ungovernable child, the counsel can review the petition process with the family and let them know what resources are available in the community. While counselors have a mandate to divert children from court when possible, they explain what action the court might take if the juvenile goes to court. Mr. Elliott told the Committee that some parents feel that the options are inadequate to satisfy their needs.

Ann Mobley, Chief Court Counselor from Bertie County, indicated that since the inception of the pilot program there had been only four 16-17 year old undisciplined youths that had been processed. They have had few inquiries, but have encouraged those who inquired to sign the petitions. Ms. Mobley expressed concern about raising the age for undisciplined juveniles because of limited resources and because of the counselor's inability to enforce the orders that are entered by the judge when the child is placed under protective supervision.

Lee Cox, Chief Court Counselor from Catawba County, indicated that there were 63 authorized undisciplined complaints within the period studied. Of those cases, 26 were assigned to the intensive services court counselor. Eight of those cases, when they came to court, were dismissed - seventeen cases were actually served. Ten 16-17 year olds were referred; 5 of those cases were placed under protective supervision, 2 of which were in intensive supervision. Four of the cases were dismissed. According to Cox, the undisciplined caseload in the district makes up between 30-40% of their regular caseload. They work with the undisciplined truant, with the run-away and with incorrigible children. They work closely with the school system, and with the mental health agency.

Ron Abernathy, an Intensive Services Counselor who is also from Catawba County, told the Committee that he has found that the intensive supervision program works. However, he has found that the effectiveness of the program decreases as the age of the juvenile increases. Abernathy told the Committee that the work he has done with 16-17 year olds has been very difficult because of three factors. The parents want a quick-fix, something immediate, but do not want to work with the system. He suggests that a program which would require the parents to participate would be helpful. Another problem is that once the juvenile reaches age 16, restrictions and curfews seem too drastic to the teen. Finally, there needs to be more "bite" in the court orders. The juvenile needs to realize that if he doesn't cooperate, there will be consequences.

The Committee also heard from other court counselors who are not participating in the pilot. Pam Honeycutt, from Nash County, urged consistency and stressed the need to focus on the 11-14 year olds before they are lost. It is easier to rehabilitate them and they will listen better to authority. Manley Dodson, of Guilford County, stressed that early intervention should be considered with young people. He agreed with Ms.

Honeycutt that by the time the system gets children who are 16-17 the problems are so acute it is frequently too late to see much progress. Richard Alligood, of Fayetteville, noted that the ages of the undisciplined youth referred to juvenile counselors are getting younger. Part of this, he believes, is due to a lack of discipline in the home, inconsistent discipline by the parents, poor parenting skills, and a lack of parental responsibility. Dennis Cotten, of Greensboro, recalled that the recommendation to lower the age of undisciplined juveniles was made several years ago, because of confusion over the age differences for delinquent offenses, criminal offenses, school attendance, and other issues related to age jurisdiction. Mr. Cotten feels that raising the age could make a difficult job even more difficult. He warned against treating the symptoms without looking at the cause; that the primary contributing factors needs to be determined. Cotten asked the Committee to consider putting resources into programs or agencies that will reinforce the role of parents.

Charles Dunn reiterated the need for early intervention and prevention, and cited the Family Preservation programs which allow early intervention in families where there is child neglect, abuse or delinquency.

Upon motion of Representative Hensley, the Committee voted unanimously to request an extension of time in which to consider the revision of the Juvenile Code.

Upon motion of Representative Hensley, the Committee unanimously voted to not recommend the expansion of current law regarding the mandatory transfer of juveniles to Superior Court for trial as adults.

Representative Hensley moved to continue the pilot programs involving undisciplined juveniles, with a further provision that the programs be directed to get an outside

evaluation of their effectiveness, and be required to furnish the Juvenile Code Committee and the General Assembly with statistics as to how those programs have worked.

Ed Taylor, Assistant Administrator of the Juvenile Services Division of the Administrative Office of the Courts, suggested that because of the small numbers to date, the pilot programs need to be extended and probably need to be enlarged. He also suggested that if the pilots are to be continued, the enabling legislation should be consistent in language and category with statutory language. Following the discussion, Representative Hensley's motion carried.

December 2, 1994

Janet Mason, of the Institute of Government, presented information on juvenile commitments. (See Appendix D) She explained that juvenile proceedings have two primary stages. The adjudicatory stage is similar to the adult trial; the juvenile may be charged with an offense, the rules of evidence apply, and the judge determines whether the juvenile is delinquent. The dispositional stage is what truly distinguishes the treatment of juveniles from the treatment of adults who commit criminal offenses. For an adult, the judge looks at the crime itself and then at the statutory scheme which outlines the sentence for the offense. The adult system also takes into account prior convictions and other circumstances. With a juvenile who is adjudicated delinquent, the judge must look at a whole range of options before committing the juvenile to training school. Once the judge has determined that commitment is appropriate, there remains the issue of the maximum amount of time the juvenile can remain in training school. Almost all juvenile commitments are for an indefinite period, though there is an exception which allows a maximum definite commitment up to two years if the juvenile

has at least two prior adjudications for delinquency and if he has already been committed to training school once. Ordinarily, the Division of Youth Services evaluates the juvenile's progress while he is in training school and decides when release is appropriate. Ms. Mason made the point that the recently enacted structured sentencing provisions raise issues that impact the Juvenile Code. Because existing law provides that a juvenile cannot be committed for a longer period of time than an adult can be sentenced, the issue has been raised before the Sentencing and Policy Advisory Commission as well as the Juvenile Code Study Committee.

Tom Thornburg, a faculty member of the Institute of Government who specializes in Criminal Law and Court Administration, gave the Committee a brief overview of the Structured Sentencing Act and its effect on juvenile dispositions (See Appendix G). Ms. Mason and Mr. Thornburg presented several options the Committee might consider in clarifying the law regarding juvenile commitments.

The Committee discussed proposals for its report to the Legislative Research Commission.

January 4, 1995

The Committee held its final meeting to discuss and adopt its recommendations and legislative proposals for the report to the Legislative Research Commission.

FINDINGS AND RECOMMENDATIONS

Mandatory Transfer of Juveniles to Superior Court

FINDINGS: The Crime Control Act of 1994 (1994 Extra Session, Chapter 22) authorized the Juvenile Code Committee of the Legislative Research Commission to study the issue of whether district courts should be mandated to transfer jurisdiction of juveniles who have committed certain serious or violent felony offenses to superior court for trial as in the case of adults. The Committee was also authorized to study the issue of the proper age of juveniles mandatorily transferred to superior court for trial as in the case of adults. Prior to 1994, the transfer of juveniles over 14 was permitted for any felony offense, but was mandatory only for first-degree murder. A bill passed during the 1994 Extra Session lowered the age at which a juvenile could be transferred to Superior Court for trial as an adult - from 14 to 13 effective May 1, 1994. Another measure introduced during the 1994 Extra Session would have gone a step further. House Bill 28 provided for the mandatory transfer of jurisdiction to Superior Court of juveniles 14 years of age or older who have allegedly committed an offense that would constitute a Class A,B,C,D, or E felony if committed by an adult. The Committee heard testimony and reviewed the proposal, and found no evidence that District Attorneys are not asking for transfer in situations where it would be appropriate, and found no evidence that judges are being asked for transfers and are not granting the requests. The decision regarding the transfer of jurisdiction for a juvenile offender should be made, to the extent possible, with due regard to the offender's profile and the characteristics of the offense.

RECOMMENDATION #1: The Committee recommends that discretion should remain with the District Attorneys and the Court, and that the Juvenile Code should not require an automatic waiver of juvenile jurisdiction for all Class A - E felony offenses.

Raising the Jurisdiction Age for Undisciplined Juveniles

FINDINGS: Though any unemancipated child under 18 years is subject to parental control, in order for a parent to regain that control after a 16-year old leaves home, the parent must go to district court and file a civil action to obtain an order for the child to return.

The 1993 General Assembly authorized a pilot program to examine the feasibility of raising the age limit for undisciplined juveniles from 16 to 18 years. Catawba, McDowell, and Bertie counties were selected to participate in the program. Issues under examination include whether older juveniles, ages 16 & 17, do as well under the protective supervision of the court, and whether intensive supervision works better than regular supervision for either group. While results are not complete, it is apparent that there were some initial misunderstandings about whether runaways were to be included in the pilot program. The Committee finds that the pilot programs have allowed counselors to meet with families and discuss options and available resources. The intensive supervision programs have offered a unique resource for those involved, and afford a better opportunity for crisis counseling and other services. However, data received from the pilot projects is not sufficient to support an objective analysis. If the pilot projects are to be used as an indicator, the program should be continued for an additional period. The Committee also finds that the legislation authorizing the pilot projects should be clarified to use language consistent with the statutory definition of an undisciplined juvenile.

RECOMMENDATION #2: The Committee recommends, and includes in its draft legislation, that the pilot program established under the Administrative Office of the Courts regarding juvenile court jurisdiction over juveniles between sixteen and eighteen years of age who are beyond the disciplinary control of their parents be extended for an additional two-year period. The Committee further recommends that the scope of the program be clarified, and that the program be subject to an independent evaluation.

Parental Involvement

FINDINGS: The Committee finds that much of the success of any juvenile justice program depends upon parental involvement in the process. A lack of discipline in the home, poor parenting skills, and lack of parental responsibility are factors which may contribute to undisciplined or delinquent behavior. There is a recognized need for intervention and prevention, and results are more encouraging when parental responsibilities are met. If the parent is not responsible, or not willing to cooperate, the program will be less effective. The Committee finds that treating the causes, and not just the symptoms, of undisciplined and delinquent behavior should be a focal point.

RECOMMENDATION #3: The Committee recommends, and includes in its draft legislation, that the Juvenile Code be amended to provide for psychiatric or psychological treatment of parents of juveniles adjudicated delinquent, undisciplined, abused, neglected, or dependent.

Juvenile Commitment to Training School

FINDINGS: Current law provides that a juvenile cannot be committed for a longer period of time than an adult can be sentenced for the same offense. The Committee finds that due to the range of sentences possible under the Structured Sentencing Act, there is a need to clarify the maximum period of time a juvenile may be committed to training school.

RECOMMENDATION #4: The Committee recommends, and includes in its draft legislation, that the maximum period of time for which a juvenile may be committed not exceed the maximum term of imprisonment for which an adult in prior record level VI for felonies or prior conviction level III for misdemeanors could be sentenced for the same offense.

Reauthorize Study

FINDINGS: The Committee finds that more time is needed to conduct a full and complete study of the Juvenile Code. It is apparent that many issues are involved, and there are related studies underway which will aid the work of the Committee when results are available.

RECOMMENDATION #5: The Committee recommends, and includes in its draft legislation, that the General Assembly authorize the Legislative Research Commission to continue its study of the Juvenile Code for an additional two-year period.

LEGISLATIVE PROPOSAL I

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S/H

D

95-LTZ-010

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

Short Title: Extend Juvenile Pilot Program.

(Public)

Sponsors: .

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT RECOMMENDED BY THE JUVENILE CODE COMMITTEE OF
3 THE LEGISLATIVE RESEARCH COMMISSION TO EXTEND THE
4 PILOT PROGRAM ESTABLISHED UNDER THE ADMINISTRATIVE
5 OFFICE OF THE COURTS REGARDING JUVENILE COURT
6 JURISDICTION OVER JUVENILES BETWEEN SIXTEEN AND
7 EIGHTEEN YEARS OF AGE WHO ARE BEYOND THE DISCIPLINARY
8 CONTROL OF THEIR PARENTS AND TO CLARIFY THE SCOPE OF
9 THE PROGRAM.
10 The General Assembly of North Carolina enacts:
11 Section 1. Section 1 of Chapter 47 of the 1993 Session Laws reads
12 as rewritten:
13 " Section 1. There is established a pilot program to be administered by the
14 Administrative Office of the Courts to expand juvenile court jurisdiction in the
15 pilot counties to include as undisciplined juveniles those juveniles at least 16
16 years of age and under 18 years of age who are beyond the disciplinary control
17 of their parents. The pilot program shall be implemented in Catawba, Bertie,
18 and McDowell Counties. In these counties, for the duration of the pilot, the
19 definition of undisciplined juvenile shall include 'a juvenile at least 16 years of
20 age and less than 18 years of age who is beyond the disciplinary control of his
21 parent, guardian, or ~~custodian.~~ custodian, who is regularly found in places
22 where it is unlawful for a juvenile to be, or who has run away from home.'
23 The purpose of the pilot program is to determine whether juvenile court

1 jurisdiction should be broadened to include such juveniles on a statewide basis.
2 The Administrative Office of the Courts shall ~~evaluate the pilot and~~ file a
3 progress report on the pilot with the General Assembly on or before the
4 convening of the 1995 Session. Session and a final report on or before the
5 convening of the 1997 Session. The final report shall include statistics
6 regarding the number of juveniles who have participated in the pilot program
7 and the effectiveness of the program for participating juveniles. The State
8 Auditor's Office shall conduct a financial and performance audit of the pilot
9 and file the audit with the General Assembly on or before the convening of the
10 1997 Session. The audit shall include all information and activities of the pilot
11 through December, 1996. The pilot shall terminate April 1, 1995, April 1,
12 1997. The pilot program shall be conducted within existing funds of the
13 Administrative Office of the Courts."

14 Sec. 2. This act becomes effective March 31, 1995.

ANALYSIS OF LEGISLATIVE PROPOSAL I

The bill short titled "Extend Juvenile Pilot Program" extends the pilot programs involving undisciplined juveniles between the ages of 16 and 18. The bill extends the term of the pilot for an additional two years to April 1, 1997, and clarifies that the pilot shall apply to a juvenile "who is regularly found in places where it is unlawful for a juvenile to be or who has run away from home." In addition, it requires the State Auditor's Office to conduct a financial and performance audit of the program and requires a final report on or before the convening of the 1997 Session.



LEGISLATIVE PROPOSAL II

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S/H

D

95-LTZ-008D

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

Short Title: Psychological Counseling of Parents.

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED

2 AN ACT RECOMMENDED BY THE LEGISLATIVE RESEARCH
3 COMMISSION'S STUDY COMMITTEE ON THE JUVENILE CODE TO
4 ALLOW COURTS TO ORDER PSYCHIATRIC OR PSYCHOLOGICAL
5 TREATMENT OF PARENTS OF JUVENILES ADJUDICATED
6 DELINQUENT, UNDISCIPLINED, ABUSED, NEGLECTED OR
7 DEPENDENT AT THE DISPOSITIONAL HEARINGS OR SUBSEQUENT
8 HEARINGS AND TO PROVIDE FOR NOTICE.

9 The General Assembly of North Carolina enacts:

10 Section 1. G.S. 7A-564 reads as rewritten:

11 "§ 7A-564. Issuance of summons.

12 (a) Immediately after a petition has been filed alleging that a juvenile is
13 abused, neglected, dependent, undisciplined, or delinquent, the clerk shall
14 issue a summons to the juvenile, to the parent, and to the guardian, custodian,
15 or caretaker requiring them to appear for a hearing at the time and place stated
16 in the summons. A copy of the petition shall be attached to each summons.

17 (b) A summons shall be on a printed form supplied by the Administrative
18 Office of the Courts and shall include:

19 (1) Notice of the nature of the proceeding;

20 (2) Notice of any right to counsel and information about how to
21 seek the appointment of counsel prior to a hearing; and

1 (3) Notice that, if the court determines at the hearing that the
2 allegations of the petition are true, the court will conduct a
3 dispositional hearing to consider the needs of the juvenile and
4 enter an order designed to meet those needs and the
5 objectives of the State, ~~and that the dispositional order may~~
6 ~~remove the juvenile from the custody of the parent, guardian,~~
7 ~~or custodian, State.~~

8 (4) Notice that the dispositional order or a subsequent order:

9 a. May remove the juvenile from the custody of the
10 parent, guardian, or custodian.

11 b. May require that the juvenile receive medical,
12 psychiatric, psychological or other treatment and that
13 the parent participate in the treatment.

14 c. May require the parent to undergo psychiatric,
15 psychological or other treatment or counseling for the
16 purpose of remedying the behaviors or conditions that
17 are alleged in the petition or that contributed to the
18 removal of the juvenile from the custody of the parent.

19 d. May order the parent to pay for treatment that is
20 ordered for the juvenile or the parent.

21 (c) The summons shall advise the parent that upon service, jurisdiction over
22 ~~him~~ the parent is obtained and that failure of the parent to comply with any
23 order of the court pursuant to G.S. 7A-650 may cause the court to issue a
24 show cause order for contempt.

25 (d) A summons shall be directed to the person summoned to appear and
26 shall be delivered to any person authorized to serve process."

27 Sec. 2. G.S. 7A-650 reads as rewritten:

28 "§ 7A-650. Authority over parents of juvenile adjudicated as delinquent,
29 undisciplined, abused, neglected, or dependent.

30 (a) If the judge court orders medical, surgical, psychiatric, psychological,
31 or other treatment pursuant to G.S. 7A-647(3), the judge court may order the
32 parent or other responsible parties to pay the cost of the treatment or care
33 ordered.

34 (b) The judge court may order the parent to provide transportation for a
35 juvenile to keep an appointment with a court counselor.

36 ~~(b1) In any case where a juvenile has been adjudicated as delinquent,~~
37 ~~undisciplined, abused, neglected or dependent, the judge may conduct a~~
38 ~~special hearing to determine if the court should order the parents to participate~~
39 ~~in medical, psychiatric, psychological or other treatment and pay the costs~~
40 ~~thereof. The notice of this hearing shall be by special petition and summons to~~
41 ~~be filed by the court and served upon the parents at the conclusion of the~~
42 ~~adjudication hearing. If, at this hearing, the court finds it in the best interest of~~
43 ~~the juvenile for the parent to be directly involved in treatment, the judge may~~
44 ~~order the parent to participate in medical, psychiatric, psychological or other~~
45 ~~treatment.~~

1 At the dispositional hearing or a subsequent hearing in the case of a
2 juvenile who has been adjudicated delinquent, undisciplined, abused, neglected
3 or dependent, if the court finds that it is in the best interest of the juvenile for
4 the parent to be directly involved in the juvenile's treatment, the court may
5 order the parent to participate in medical, psychiatric, psychological or other
6 treatment of the juvenile and to pay the costs thereof. If the court finds that
7 the parent is unable to pay the cost of the treatment, the court may charge the
8 cost to the county of the juvenile's residence.

9 ~~(b2) At any hearing conducted pursuant to subsection (b1) of this section or~~
10 ~~at a separate hearing set for this purpose, the court may consider whether the~~
11 ~~best interest of a juvenile who has been removed from the custody of his parent~~
12 ~~requires that legal custody or physical placement of the juvenile with the~~
13 ~~parent be conditioned upon the parent undergoing medical, psychiatric,~~
14 ~~psychological, or other treatment directed toward remediating or remedying~~
15 ~~those behaviors or conditions that led to or contributed to removal of the child,~~
16 ~~and paying the cost of that treatment. The notice of hearing in such case shall~~
17 ~~be by special petition and summons to be filed with the court and served upon~~
18 ~~the parent at the conclusion of the adjudication hearing. The notice may be~~
19 ~~combined with a notice given under subsection (b1) of this section. If, at the~~
20 ~~hearing, the court determines that the best interest of the juvenile requires that~~
21 ~~the parent undergo such treatment, it may enter an order conditioning legal~~
22 ~~custody or physical placement of the juvenile with the parent upon compliance~~
23 ~~with a plan of treatment approved by the court and order the parent to pay the~~
24 ~~cost of the treatment. If the judge finds the parent is unable to pay the cost of~~
25 ~~the treatment, the judge may charge the cost to the county. The special~~
26 ~~hearing required by this subsection may be combined with the dispositional~~
27 ~~hearing as long as the notice required by this subsection is given.~~

28 At the dispositional hearing or a subsequent hearing in the case of a
29 juvenile who has been adjudicated delinquent, undisciplined, abused, neglected
30 or dependent, the court may determine whether the best interest of the juvenile
31 requires that the parent undergo psychiatric, psychological or other treatment
32 or counseling directed toward remediating or remedying behaviors or
33 conditions that led to or contributed to the juvenile's adjudication or to the
34 court's decision to remove custody of the juvenile from the parent. If the
35 court finds that the best interest of the juvenile requires the parent undergo
36 treatment, it may order the parent to comply with a plan of treatment
37 approved by the court or condition legal custody or physical placement of the
38 juvenile with the parent upon the parent's compliance with the plan of
39 treatment. The court may order the parent to pay the cost of the treatment
40 and, if it finds that the parent is unable to pay the cost of the treatment, may
41 charge the cost to the county of the juvenile's residence.

42 (c) Whenever legal custody of a juvenile is vested in someone other than his
43 the juvenile's parent, after due notice to the parent and after a hearing, the
44 judge court may order that the parent pay a reasonable sum that will cover in
45 whole or in part the support of the juvenile after the order is entered. If the

1 court requires the payment of child support, the amount of the payments shall
2 be determined as provided in G.S. 50-13.4(c). If the judge court places a
3 juvenile in the custody of a county department of social services and if the
4 judge court finds that the parent is unable to pay the cost of the support
5 required by the juvenile, the cost shall be paid by the county department of
6 social services in whose custody the juvenile is placed, provided the juvenile is
7 not receiving care in an institution owned or operated by the State or federal
8 government or any subdivision thereof.

9 (d) Failure of a parent who is personally served to participate in or comply
10 with subsections (a) through (c) may result in a civil proceeding for contempt."

11 Sec. 3. G.S. 7A-523 reads as rewritten:

12 "§ 7A-523. Jurisdiction.

13 (a) The court has exclusive, original jurisdiction over any case involving a
14 juvenile who is alleged to be delinquent, undisciplined, abused, neglected, or
15 dependent. This jurisdiction does not extend to cases involving adult
16 defendants alleged to be guilty of abuse or neglect. For purposes of
17 determining jurisdiction, the age of the juvenile either at the time of the
18 alleged offense or when the conditions causing the juvenile to be abused,
19 neglected, or dependent arose, governs. There is no minimum age for juveniles
20 alleged to be abused, dependent or neglected. For juveniles alleged to be
21 delinquent or undisciplined, the minimum age is six years of age.

22 The court also has exclusive original jurisdiction of the following
23 proceedings:

- 24 (1) Proceedings under the Interstate Compact on Juveniles and
25 the Interstate Parole and Probation Hearing Procedures for
26 Juveniles;
- 27 (2) Proceedings to determine whether a juvenile who is on
28 conditional release and under the aftercare supervision of the
29 court counselor has violated the terms of his conditional
30 release established by the Division of Youth Services;
- 31 (3) Proceedings involving judicial consent for emergency surgical
32 or medical treatment for a juvenile when his parent, guardian,
33 legal custodian, or other person standing *in loco parentis*
34 refuses to consent for treatment to be rendered;
- 35 (4) Proceedings to determine whether a juvenile should be
36 emancipated;
- 37 (5) Proceedings to terminate parental rights;
- 38 (6) Proceedings to review the placement of a juvenile in foster
39 care pursuant to an agreement between the juvenile's parents
40 or guardian and a county department of social services;
- 41 (7) Proceedings in which a person is alleged to have obstructed or
42 interfered with an investigation required by G.S. 7A-544.

43 (b) The court shall have jurisdiction over the parent of a juvenile who has
44 been adjudicated delinquent, undisciplined, abused, neglected or dependent, as
45 provided by ~~the special hearing prescribed by G.S. 7A-650, provided the~~

1 ~~parent has been properly served with notice of the special hearing.~~ G.S. 7A-
2 564, provided the parent has been properly served with notice pursuant to G.S.
3 7A-564."

4 Sec. 4. This act becomes effective October 1, 1995, and applies to
5 petitions filed on or after that date.

ANALYSIS OF LEGISLATIVE PROPOSAL II

The bill short titled "Psychological Counseling of Parents" revises G.S. 7A-564, the section that governs the issuance of summonses after a petition has been filed alleging that a juvenile is abused, neglected, dependent, undisciplined, or delinquent. The proposed bill revises the section to provide notice to a juvenile, the juvenile's parent and the guardian, custodian, or caretaker that the dispositional or other order may require the juvenile to receive medical, psychiatric, psychological or other treatment, the parent to undergo psychiatric, psychological or other treatment or counseling, and the parent to pay for the treatment.

The bill also rewrites subsections (b1) and (b2) of G.S. 7A-650. Subsection (b1) has been revised to allow the court to order the parent of a juvenile who has been adjudicated delinquent, undisciplined, abused, neglected or dependent to participate in treatment of the juvenile at the dispositional or a subsequent hearing. The court is no longer required to hold a special hearing for that purpose.

Subsection (b2) is revised to allow the court to order the parent of a juvenile who has been adjudicated delinquent, undisciplined, abused, neglected or dependent to comply with a plan of psychiatric, psychological or other treatment or counseling. The current law allows the court to order the parent of a juvenile who has been removed from the custody of the juvenile's parent to comply with a plan of medical, psychiatric, psychological, or other treatment at a special hearing only. This revision expands the court's authority to order treatment of the parent in circumstances other than the removal of the juvenile from the juvenile's home. The court may allow treatment of the parent, if it is in the best interest of the juvenile, any time the juvenile has been adjudicated and may order the treatment at the dispositional hearing of the juvenile.

The revised subsection (b2) is more restrictive than current law in that the court does not have the authority to order the parent to receive "medical" treatment though the court may order psychiatric or psychological treatment. In addition, revised subsection (b2) allows the court to charge the costs of the treatment to the county of the juvenile's residence.

LEGISLATIVE PROPOSAL III

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S/H

D

95-LTZ-016

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

Short Title: Clarify Juvenile Commitments.

(Public)

Sponsors: .

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THE MAXIMUM PERIOD OF TIME A JUVENILE
3 MAY BE COMMITTED IN ACCORDANCE WITH STRUCTURED
4 SENTENCING.

5 Section 1. G.S. 7A-652(c) reads as rewritten:
6 "(c) In no event shall commitment of a delinquent juvenile be for a period of
7 time in excess of ~~that period for which an adult could be committed for the~~
8 ~~same act.~~ the maximum term of imprisonment for which an adult in prior
9 record level VI for felonies or in prior conviction level III for misdemeanors
10 could be sentenced for the same offense. Any juveniles committed for an
11 offense for which an adult would be sentenced for 30 days or less A juvenile
12 committed only for an offense that would be a Class 3 misdemeanor if
13 committed by an adult shall be assigned to a local detention home as defined
14 by G.S. 7A-517(15) or a regional home as defined by G.S. 7A-517(26)."

15 Sec. 2. This act becomes effective October 1, 1995, and applies to
16 offenses committed on or after that date.

ANALYSIS OF LEGISLATIVE PROPOSAL III

The bill short titled "Clarify Juvenile Commitments" revises G.S. 7A-652(c) to clarify that juveniles may not be committed for a period of time in excess of the maximum term of imprisonment any adult could receive for the same offense under structured sentencing. The bill references "prior record level VI for felonies" and "prior conviction level III for misdemeanors", which are the charted levels judges use to determine the minimum and maximum terms of imprisonment of a person with the maximum number of points for prior convictions. The second sentence has been revised to incorporate language, which, under structured sentencing, clarifies the original statutory intent of the section.

LEGISLATIVE PROPOSAL IV (HOUSE)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

H

D

HOUSE JOINT RESOLUTION 95-LTZ-009
(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

Sponsors: .

Referred to:

1 A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH
2 COMMISSION TO STUDY THE JUVENILE CODE.

3 Whereas the Legislative Research Commission was authorized to study the
4 Juvenile Code and established the Juvenile Code Committee, which studied the
5 Juvenile Code during the 1993 General Assembly and made legislative
6 proposals to the 1995 General Assembly; and

7 Whereas the Juvenile Code Committee determined that more time is needed
8 to conduct a full and comprehensive study of the Juvenile Code before it can
9 recommend further revisions to the Code or a rewrite of the Code;

10 Now therefore,

11 Be it resolved by the House of Representatives, the Senate concurring:

12 Section 1. The Legislative Research Commission may study the
13 Juvenile Code to determine whether it should be amended or rewritten.

14 The Commission may make an interim report, including any
15 legislative proposals, to the 1995 General Assembly, Regular Session 1996,
16 and a final report, including any legislative proposals, to the 1997 General
17 Assembly.

18 Sec. 2. This resolution is effective upon ratification.

LEGISLATIVE PROPOSAL IV (SENATE)
GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1995

S

D

SENATE JOINT RESOLUTION 95-LTZ-009A
(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

Sponsors:

Referred to:

1 A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH
2 COMMISSION TO STUDY THE JUVENILE CODE.

3 Whereas the Legislative Research Commission was authorized to study the
4 Juvenile Code and established the Juvenile Code Committee, which studied the
5 Juvenile Code during the 1993 General Assembly and made legislative
6 proposals to the 1995 General Assembly; and

7 Whereas the Juvenile Code Committee determined that more time is needed
8 to conduct a full and comprehensive study of the Juvenile Code before it can
9 recommend further revisions to the Code or a rewrite of the Code;

10 Now therefore,

11 Be it resolved by the Senate, the House of Representatives concurring:

12 Section 1. The Legislative Research Commission may study the
13 Juvenile Code to determine whether it should be amended or rewritten.

14 The Commission may make an interim report, including any
15 legislative proposals, to the 1995 General Assembly, Regular Session 1996,
16 and a final report, including any legislative proposals, to the 1997 General
17 Assembly.

18 Sec. 2. This resolution is effective upon ratification.

ANALYSIS OF LEGISLATIVE PROPOSAL IV

The House and Senate Resolutions state that the Juvenile Code Committee determined that it needs more time to conduct a full and comprehensive study of the Juvenile Code and extends the Committee to 1997.

APPENDIX A

HOUSE BILL 1319, 2ND EDITION

AN ACT TO AUTHORIZE STUDIES BY THE LEGISLATIVE RESEARCH COMMISSION, TO CREATE AND CONTINUE VARIOUS COMMITTEES AND COMMISSIONS, AND TO DIRECT VARIOUS STATE AGENCIES TO STUDY SPECIFIED ISSUES.

The General Assembly of North Carolina enacts:

PART I.-----TITLE

Section 1. This act shall be known as "The Studies Act of 1993".

PART II.-----LEGISLATIVE RESEARCH COMMISSION

Sec. 2.1. The Legislative Research Commission may study the topics listed below. Listed with each topic is the 1993 bill or resolution that originally proposed the issue or study and the name of the sponsor. The Commission may consider the original bill or resolution in determining the nature, scope, and aspects of the study. The topics are:

(67) Juvenile Code (H.J.R. 1429 - Hensley),

Sec. 2.2. Committee Membership. For each Legislative Research Commission Committee created during the 1993-94 biennium, the cochairs of the Commission shall appoint the Committee membership.

Sec. 2.3. Reporting Dates. For each of the topics the Legislative Research Commission decides to study under this act or pursuant to G.S. 120-30.17(1), the Commission may report its findings, together with any recommended legislation, to the 1994 Regular Session of the 1993 General Assembly or the 1995 General Assembly, or both.

Sec. 2.4. Bills and Resolution References. The listing of the original bill or resolution in this Part is for reference purposes only and shall not be deemed to have incorporated by reference any of the substantive provisions contained in the original bill or resolution.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1993

H

1

HOUSE JOINT RESOLUTION 1429

Sponsors: Representatives Hensley; and Bowman.

Referred to: Rules, Calendar, and Operations of the House.

May 17, 1993

**1 A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH
2 COMMISSION TO STUDY THE JUVENILE CODE.**

3 Be it resolved by the House of Representatives, the Senate concurring:

**4 Section 1. The Legislative Research Commission may study the
5 Juvenile Code to determine whether it needs amending or complete rewriting.**

**6 The Commission may make an interim report, including any
7 legislative proposals, to the 1993 General Assembly, Regular Session 1994,
8 and a final report, including any legislative proposals, to the 1995 General
9 Assembly.**

10 Sec. 2. This resolution is effective upon ratification.

CHAPTER 22
1994 EXTRA SESSION

HOUSE BILL 39

PART 1. TITLE OF ACT

Section 1. This act shall be known as the Crime Control Act of 1994.

PART 5. Sec. 29. The Juvenile Code Committee of the Legislative Research Commission is authorized to study the issue of whether district courts should be mandated to transfer jurisdiction of juveniles who have committed certain serious or violent felony offenses to superior court for trial as in the case of adults upon a finding of probable cause. The Committee may also study the issue of the proper age of juveniles mandatorily transferred to superior court for trial as in the case of adults. The Committee may submit an interim report of its findings and recommendations to the 1994 Regular Session of the 1993 General Assembly and shall submit a final report to the 1995 General Assembly.

...

APPENDIX B

MEMBERSHIP OF LRC COMMITTEE ON THE JUVENILE CODE 1993 - 1994

LRC Member: Sen. Frank W. Ballance, Jr.
P.O. Box 616
Warrenton, NC 27589
(919)257-1012

President Pro Tempore's Appointments

Sen. Roy Cooper, CoChair
P.O. Box 4538
Rocky Mount, NC 27803
(919)442-3115

Sen. Austin Allran
P.O. Box 2907
Hickory, NC 28603
(704)324-5200

Sen. Frank W. Ballance, Jr.
P.O. Box 616
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(910)226-0683

Ms. Linda Hayes
Route 4, Box 829
Dunn, NC 28334

Ms. Denise Lucas
6095 Buffalo Road
Selma, NC 27576

Sen. Elaine Marshall
P.O. Box 1660
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Ms. Brownie Smyre
Alliance Children & Youth
208 E. Franklin Avenue
Gastonia, NC 28054

Mr. Jerry Tillet
Route 1, Box 1659
Manteo, NC 27954

Speaker's Appointments

Rep. Robert Hensley, Jr., CoChair
124 St. Mary's Street
Raleigh, NC 27605
(919)832-9651

Rep. Philip A. Baddour, Jr.
208 S. William Street
Goldsboro, NC 27530
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Hon. Loretta Biggs
Chief District Court Judge
21st Judicial District
Hall of Justice
201 N. Main Street
Winston-Salem, NC 27101

Mr. Richard B. Glazier
2642 Old Colony Place
Fayetteville, NC 28303

Rep. Bobby H. Griffin
Box 308
Monroe, NC 28111-0308
(704)283-8148

Mr. James E. "Mike" Roark
2702 Everett Avenue
Raleigh, NC 27607

Rep. Gene Rogers
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APPENDIX C

UNDISCIPLINED JUVENILES/PARENTAL CONTROL

The Juvenile Code, Chapter 7A, Subchapter XI of the General Statutes, grants the court jurisdiction over any case involving a juvenile who is alleged to be delinquent, undisciplined, abused, neglected, or dependent. An "undisciplined juvenile" is defined as a juvenile **less than 16 years of age** who is unlawfully absent from school; who is regularly found in places where it is unlawful for a juvenile to be; or who has run away from home. Under the statutes, all reports concerning a juvenile alleged to be undisciplined are to be referred to an intake counselor for screening. Intake services have been established in each judicial district of the State for screening complaints and determining whether the case is within the jurisdiction of the court, and whether a petition should be filed with the court. Procedures for filing the petition, and guidelines for the hearing and dispositional alternatives are set out in the statutes. Once the court takes jurisdiction of a minor, the court retains jurisdiction until the minor reaches age 18. The relevant portion of the Juvenile Code reads as follows:

§7A-517. Definitions. Unless the context clearly requires otherwise, the following words have the listed meanings:

....

(20) Juvenile. -- Any person who has not reached his eighteenth birthday and is not married, emancipated, or a member of the armed services of the United States. For the purposes of subdivisions (12) and (28) of this section [see below], a juvenile is any person who has not reached his sixteenth birthday and is not married, emancipated, or a member of the armed forces. A juvenile who is married, emancipated, or a member of the armed forces, shall be prosecuted as an adult for the commission of a criminal offense. Wherever the term "juvenile" is used with reference to rights and privileges, that term encompasses the attorney for the juvenile as well.

(28) Undisciplined Juvenile. -- A juvenile less than 16 years of age who is unlawfully absent from school; or who is regularly disobedient to his parent, guardian, or custodian and beyond their disciplinary control; or who is regularly found in places where it is unlawful for a juvenile to be; or who has run away from home.

....

While the process contained in the Juvenile Code is not applicable to minors over the age of 16, Article 2A of Chapter 110 of the General Statutes deals with parental control of children. §110-44.1 provides that any child under the age of 18 is subject to the supervision and control of his or her parents (unless the child is married, a member of the armed forces, or legally emancipated). Actions filed under the procedure in Chapter 110 must be filed by the parent or guardian in the district court of the county where the child can be found or the county of the plaintiff's residence. The Parental Control statute differs from the Juvenile Code procedure in that it applies to any minor under the age of 18 and is typically is used where the minor has left home and refuses to return and comply with the direction and control of the parent. The complaint is filed with the minor named as the defendant; the person who is harboring the minor may also be named as a defendant in the matter. Hearings are held by a district court judge. A judgment under the Parental Control statute would be treated as an injunction, to remain in force until the child reaches the age of 18. For example, the judge may order the minor to return to his or her parents' home, and may order that any person named defendant in the order or judgment not harbor, keep, or allow the minor to remain on his or her premises or in his or her home. The Parental Control Act provisions read as follows:

§110-44.1. Child under 18 subject to parents' control.

Notwithstanding any other provision of law, any child under 18 years of age, except as provided in G.S. 110-44.2 and 110-44.3, shall be subject to the supervision and control of his parents.

§110-44.2. Exceptions.

This Article shall not apply to any child under the age of 18 who is married or who is serving in the armed forces of the United States, or who has been emancipated.

§110-44.3. No criminal liability created.

This Article shall not be interpreted to place any criminal liability on a parent for any act of his child 16 years of age or older.

§ 110-44.4. Enforcement.

The provisions of this Article may be enforced by the parent, guardian, or person standing in loco parentis to the child by filing a civil action in the district court of the county where the child can be found or the county of the plaintiff's residence. Upon the institution of such action by a verified complaint, alleging that the defendant child has left home or has left the place where he has been residing and refuses to return and comply with the direction and control of the plaintiff, the court may issue an order directing the child personally to appear before the court at a specified time to be heard in answer to the allegations of the plaintiff and to comply with further orders of the court. Such orders shall be served by the sheriff upon the child and upon any other person named as a party defendant in such action. At the time of the issuance of the order directing the child to appear the court may in the same order, or by separate order, order the sheriff to enter any house, building, structure or conveyance for the purpose of searching for said child and serving said order and for the purpose of taking custody of the person of said child in order to bring said child before the court. Any order issued at said hearing shall be treated as a mandatory injunction and shall remain in full force and effect until the child reaches the age of 18, or until further orders of the court. Within 30 days after the hearing on the original order, the child, or anyone acting in his behalf, may file a verified answer to the complaint. Upon the filing of an answer by or on behalf of said child, any district court judge holding court in the county or district court district as defined in G.S. 7A-133 where said action was instituted shall have jurisdiction to hear the matter, without a jury, and to make findings of fact, conclusions of law, and render judgment thereon. Appeals from the district court to the Court of Appeals shall be allowed as in civil actions generally. The district judge issuing the original order or the district judge hearing the matter after answer has been filed shall also have authority to order that any person named defendant in the order or judgment shall not harbor, keep, or allow the defendant child to remain on said person's premises or in said person's home. Failure of any defendant to comply with the terms of said order or judgment shall be punishable as for contempt.

Much discussion has occurred in recent years about the issue of raising the juvenile jurisdiction age for delinquent and undisciplined juveniles from under 16 years to under 18 years, thus bringing 16 and 17 year olds within the provisions of the Juvenile Code. Among the concerns raised have been the difficulties encountered by parents in seeking to enforce the Parental Control statute, the confusion and uncertainty resulting from the varying definitions of a "juvenile" in different provisions of the General Statutes, the potential high costs involved in transferring 16 and 17 year olds into the juvenile system, and the potential harm from placing older teens in existing juvenile facilities with younger children.

The General Assembly directed the Juvenile Law Study Commission to study the issue of juvenile jurisdictional age. Three of the Commission's recommendations to the 1991 General Assembly were:

1. That the age of an undisciplined juvenile in the Juvenile Code be amended to include "[a] juvenile more than 16 years of age and less than 18 years of age who is beyond the disciplinary control of his parent, guardian, or custodian".
2. Various changes to the Parental Control Act, including a procedure for parents to file pro se actions (lawsuits without an attorney) in civil court under the Parental Control Act (G.S. 110-44.1 - 44.4).
3. That parents be allowed to petition for emancipation of their child (age 16 or older).

Only the second of these bills was ratified during the 1991-92 Session, and the final ratified version did not include the pro se provision.

In its 1993 report to the General Assembly, the Juvenile Law Study Commission recommended a bill containing the pro se provision. That bill has not been ratified. The Commission also recommended the establishment of a pilot program under the Administrative Office of the Courts to expand juvenile court jurisdiction in three counties to include as undisciplined juveniles 16 and 17 year olds. In May, the General Assembly ratified House Bill 283, which would establish the pilot programs in Catawba, Bertie, and McDowell counties, effective October 1, 1993. There will be an evaluation and report on the pilot program to the 1995 General Assembly.

Brenda J. Carter, Committee Counsel
Juvenile Code Study Committee
October 28, 1994

SELECTED JUVENILE CODE PROVISIONS RELATING TO TRAINING SCHOOL COMMITMENTS

§ 7A-516. Purpose.

This Subchapter shall be interpreted and construed so as to implement the following purposes and policies:

- (3) To develop a disposition in each juvenile case that reflects consideration of the facts, the needs and limitations of the child, the strengths and weaknesses of the family, and the protection of the public safety;

§ 7A-638. Legal effect of adjudication of delinquency.

An adjudication that a juvenile is delinquent or commitment of a juvenile to the Division of Youth Services shall neither be considered conviction of any criminal offense nor cause the juvenile to forfeit any citizenship rights.

§ 7A-640. Dispositional hearing.

The dispositional hearing may be informal, and the judge may consider written reports or other evidence concerning the needs of the juvenile. The juvenile and his parent, guardian, or custodian shall have an opportunity to present evidence, and they may advise the judge concerning the disposition they believe to be in the best interest of the juvenile. The judge may exclude the public from the hearing unless the juvenile moves that the hearing be open, which motion shall be granted.

§ 7A-646. Purpose.

The purpose of dispositions in juvenile actions is to design an appropriate plan to meet the needs of the juvenile and to achieve the objectives of the State in exercising jurisdiction. If possible, the initial approach should involve working with the juvenile and his family in their own home so that the appropriate community resources may be involved in care, supervision, and treatment according to the needs of the juvenile. Thus, the judge should arrange for appropriate community-level services to be provided to the juvenile and his family in order to strengthen the home situation.

In choosing among statutorily permissible dispositions for a delinquent juvenile, the judge shall select the least restrictive disposition both in terms of kind and duration, that is appropriate to the seriousness of the offense, the degree of culpability indicated by the circumstances of the particular case and the age and prior record of the juvenile. A juvenile should not be committed to training school or to any other institution if he can be helped through community-level resources.

§ 7A-651. Dispositional order.

(e) An order that commits a juvenile to the Division of Youth Services shall recite detailed findings that support commitment to the Division as the least restrictive alternative in light of the circumstances. These findings shall state that all alternatives to commitment prescribed in G.S. 7A-647, 7A-648, and 7A-649 have been attempted unsuccessfully or were considered and found to be inappropriate and that the juvenile's behavior

constitutes a threat to persons or property in the community. These findings shall be supported by substantial evidence in the record that the judge determined the needs of the juvenile, determined the appropriate community resources required to meet those needs, and explored and exhausted or considered inappropriate those resources prior to committing the juvenile to the Division.

§ 7A-652. Commitment of delinquent juvenile to Division of Youth Services.

(a) A delinquent juvenile 10 years of age or more may be committed to the Division of Youth Services for placement in one of the residential facilities operated by the Division if the judge finds that the alternatives to commitment as contained in G.S. 7A-647, 7A-648, and 7A-649 have been attempted unsuccessfully or were considered and found to be inappropriate and that the juvenile's behavior constitutes a threat to persons or property in the community. These findings shall be supported by substantial evidence in the record that the judge determined the needs of the juvenile, determined the appropriate community resources required to meet those needs, and explored and exhausted or considered inappropriate those resources prior to committing the juvenile to the Division.

(b) Commitment shall be for:

- (1) An indefinite term not to exceed the eighteenth birthday of the juvenile; or
- (2) A definite term not to exceed two years if the judge finds that the juvenile is 14 years of age or older, has been previously adjudicated delinquent for two or more felony offenses, and has been previously committed to a residential facility operated by the Division of Youth Services. The Division may reduce the duration of the definite commitment by an amount not to exceed twenty-five percent (25%) if the juvenile has not committed any major infractions of the regulations of any facility to which he is assigned, and the Division of Youth Services may move for a reduction of more than twenty-five percent (25%) pursuant to G.S. 7A-664.

(c) In no event shall commitment of a delinquent juvenile be for a period of time in excess of that period for which an adult could be committed for the same act. Any juveniles committed for an offense for which an adult would be sentenced for 30 days or less shall be assigned to a local detention home as defined by G.S. 7A-517(15) or a regional home as defined by G.S. 7A-517(26). [emphasis added.]

(e) The Division of Youth Services shall accept all juveniles who have been committed for delinquency when the order of commitment appears on its face to contain the findings required by G.S. 7A-651(e) but may decline to do so otherwise. A commitment order accompanied by information requested by the Director shall be forwarded to the Division. The Director shall place the juvenile in the residential facility that would best provide for his needs and shall notify the committing court. The Secretary of the Department of Human Resources may assign a juvenile committed for delinquency to any institution or other program of the Department or licensed by the Department, which program is appropriate to the needs of the juvenile.

(f) When the judge commits a juvenile to the Division of Youth Services, the Director shall prepare a plan for care or treatment within 30 days after assuming custody of the juvenile.

(g) Commitment of a juvenile to the Division of Youth Services does not terminate the court's continuing jurisdiction rights over the juvenile and his parent or guardian. Commitment of a juvenile to the Division of Youth Services transfers only physical custody of the juvenile to the Division. Legal custody remains with the parent, guardian, agency or institution in whom it was vested.

§ 7A-654. Prerelease planning.

The Director of the Division of Youth Services shall be responsible for evaluation of the progress of each juvenile at least once every six months as long as the juvenile remains in the care of the Division. If the Director determines that a juvenile is ready for release, he shall initiate a prerelease planning process. The prerelease planning process shall be defined by rules and regulations of the Division of Youth Services, but shall include the following:

- (1) Written notification to the judge who ordered commitment;
- (2) A prerelease planning conference shall be held involving as many as possible of the following: the juvenile, his parent, court counselors who have supervised the juvenile on probation or will supervise him on aftercare, and staff of the facility that found the juvenile ready for release. The prerelease planning conference shall include personal contact and evaluation rather than telephonic notification.
- (3) The prerelease planning conference participants shall consider, based on the individual needs of the juvenile, and pursuant to rules adopted by the Division, placement of the juvenile in any program under the auspices of the Division, including the Community-Based Alternative programs, or under the Administrative Office of the Courts, that, in the judgment of the Division, may serve as a transitional placement, pending release under G.S. 7A-655.

§ 7A-655. Conditional release and final discharge.

The Division of Youth Services shall release a juvenile either by conditional release or by final discharge. The decision as to which type of release is appropriate shall be made by the Director based on the needs of the juvenile and the best interests of the State under rules and regulations governing release which shall be promulgated by the Division of Youth Services, according to the following guidelines:

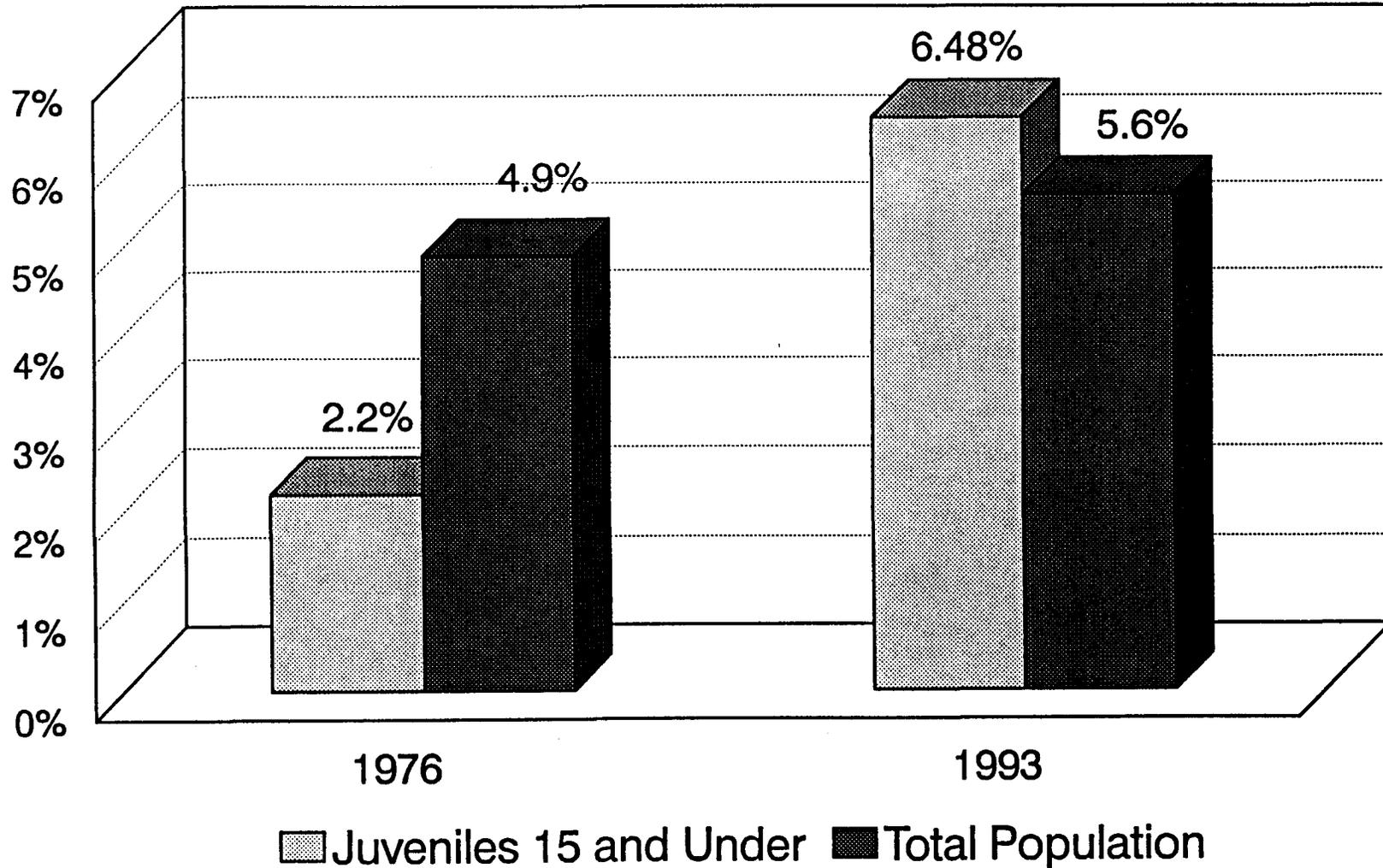
- (1) Conditional release is appropriate for a juvenile needing supervision after leaving the institution. As part of the prerelease planning process, the terms of conditional release shall be set out in writing and a copy given to the juvenile, his parent, the committing court, and the court counselor who will provide aftercare supervision. The time that a juvenile spends on conditional release shall be credited toward his maximum period of commitment to the Division of Youth Services.
- (2) Final discharge is appropriate when the juvenile does not require supervision, has completed a maximum commitment for his offense, or is 18 years of age.

STATISTICAL INFORMATION ON JUVENILE CRIME
IN NORTH CAROLINA

E-1

APPENDIX E

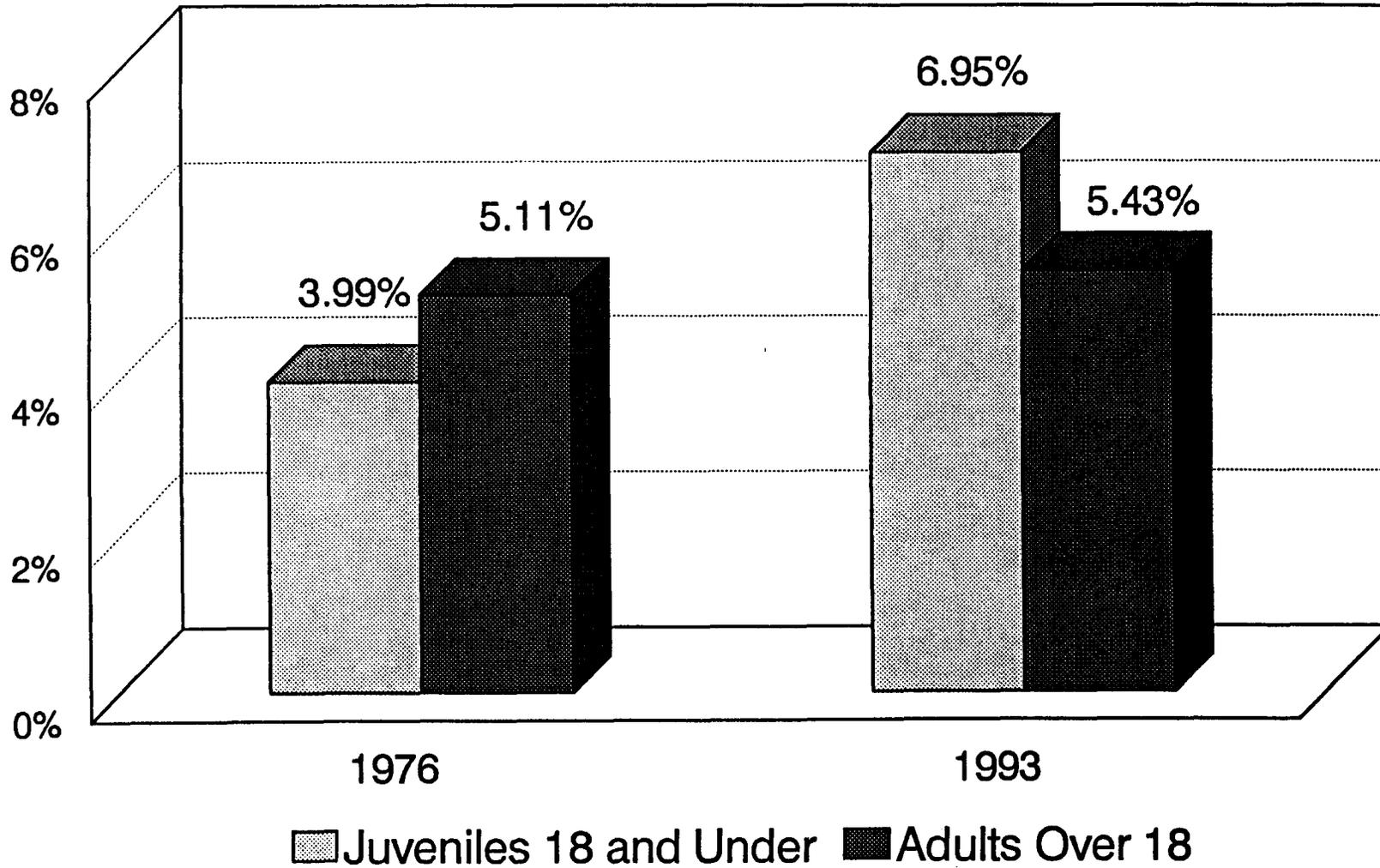
Arrests for Violent Offenses As a Percentage of Total Arrests



E-2

State Bureau of Investigation
Violent Crime includes murder, rape, robbery and aggravated assault.

Arrests for Violent Offenses As a Percentage of Total Arrests By Age Group



E-3

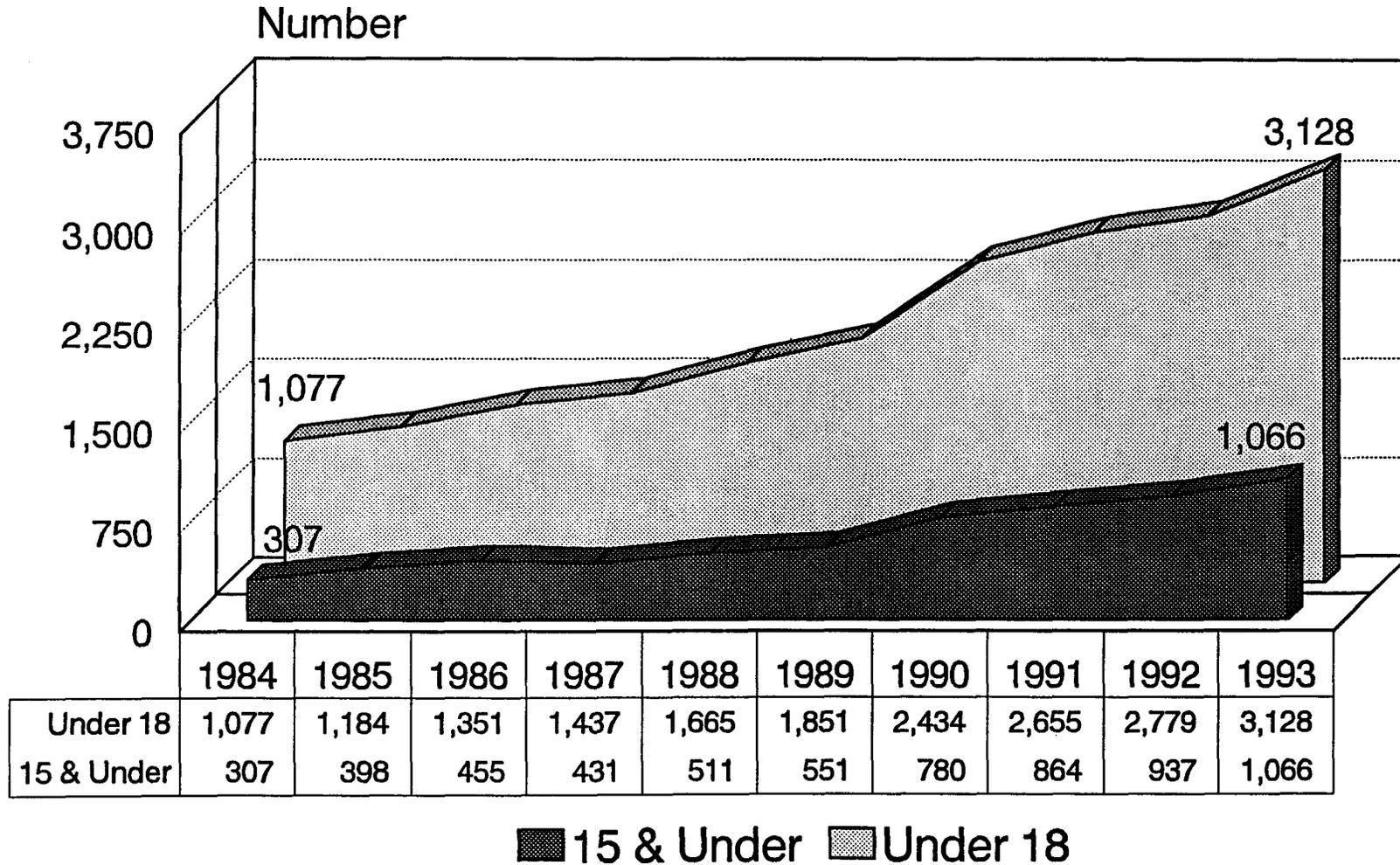
State Bureau of Investigation
Violent Crime includes murder, rape, robbery and aggravated assault.

Arrests for Violent Offenses as a Percentage of Total Arrests By Age Group

<u>Age Group</u>	<u>1976</u>	<u>1993</u>
15 & under	2.21%	6.48%
16	4.74%	7.62%
17	4.78%	7.12%
18	4.65%	6.76%
19	4.95%	6.37%
20	5.21%	6.58%
21	5.26%	6.41%
22	5.33%	6.03%
23	6.05%	5.58%
24	5.89%	5.67%
25-29	5.86%	5.67%
30-34	5.71%	4.94%
35-39	4.82%	4.85%
40-44	4.62%	4.63%
45-49	4.13%	5.08%
50-54	4.03%	5.41%
55-59	3.23%	5.46%
60-64	3.43%	6.01%
65 & over	4.67%	6.12%

Juvenile Arrests for Violent Crime 1984-1993

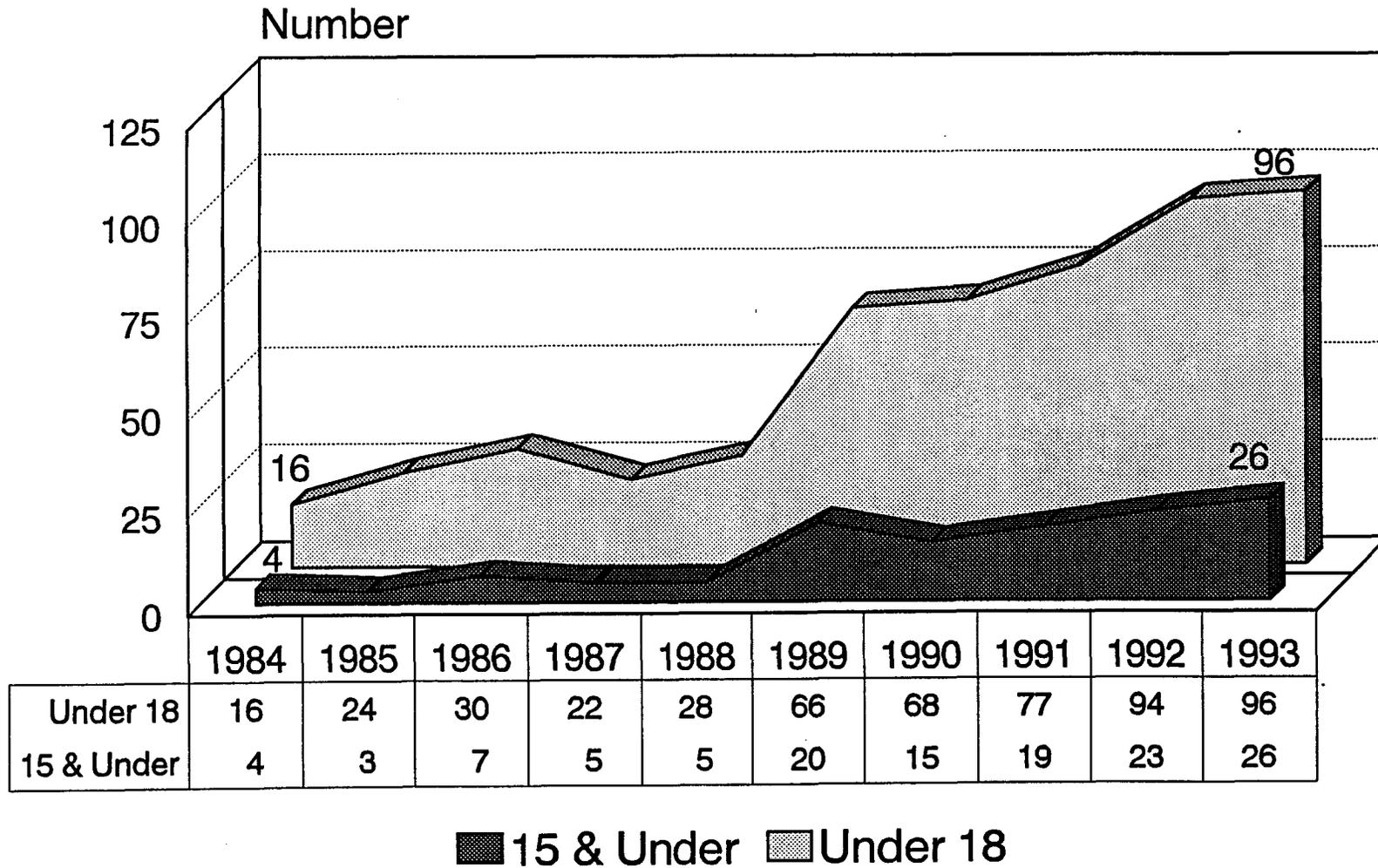
E-5



State Bureau of Investigation
Violent Crime includes murder, rape, robbery and aggravated assault.

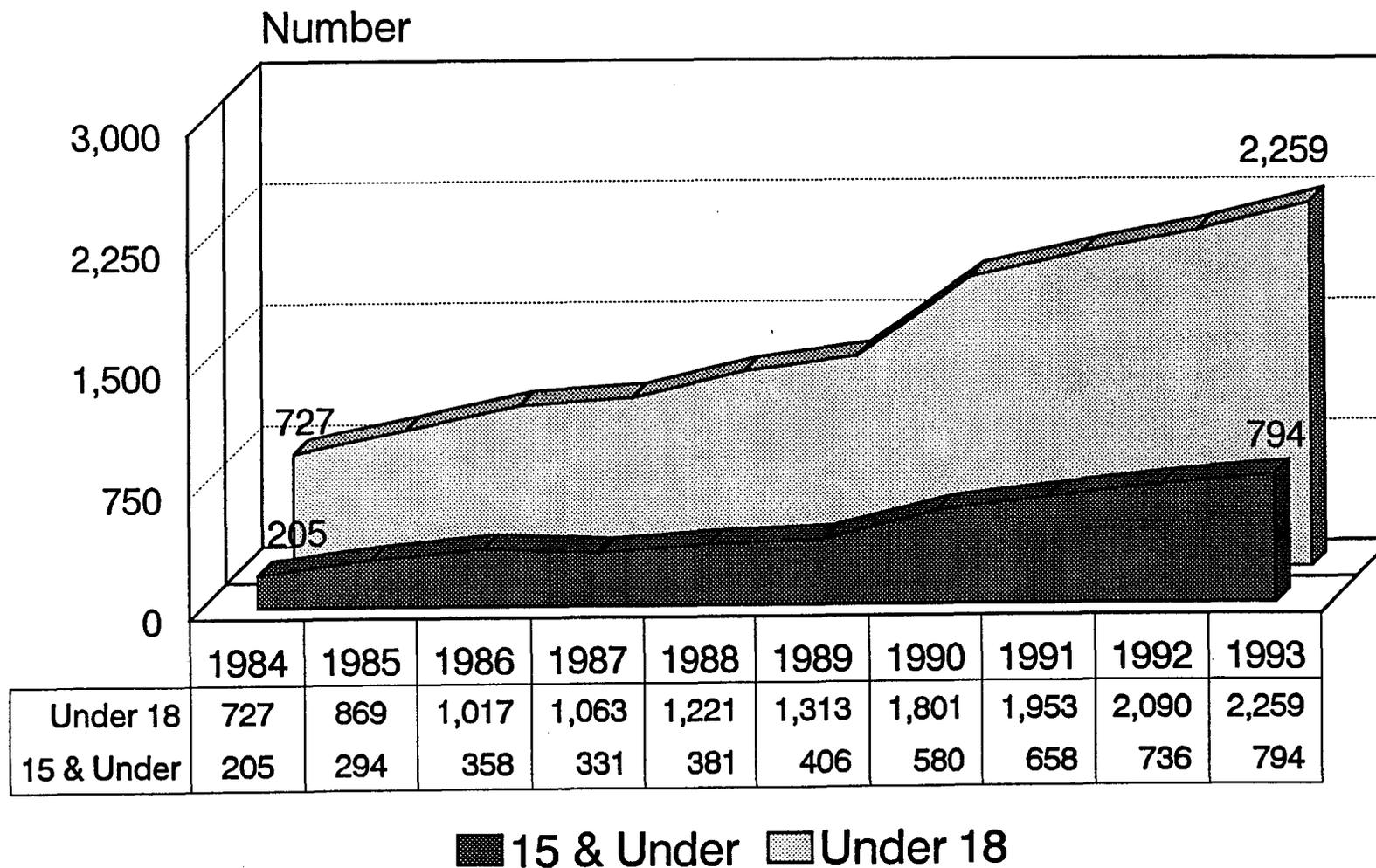
Juvenile Arrests for Murder 1984-1993

E-6



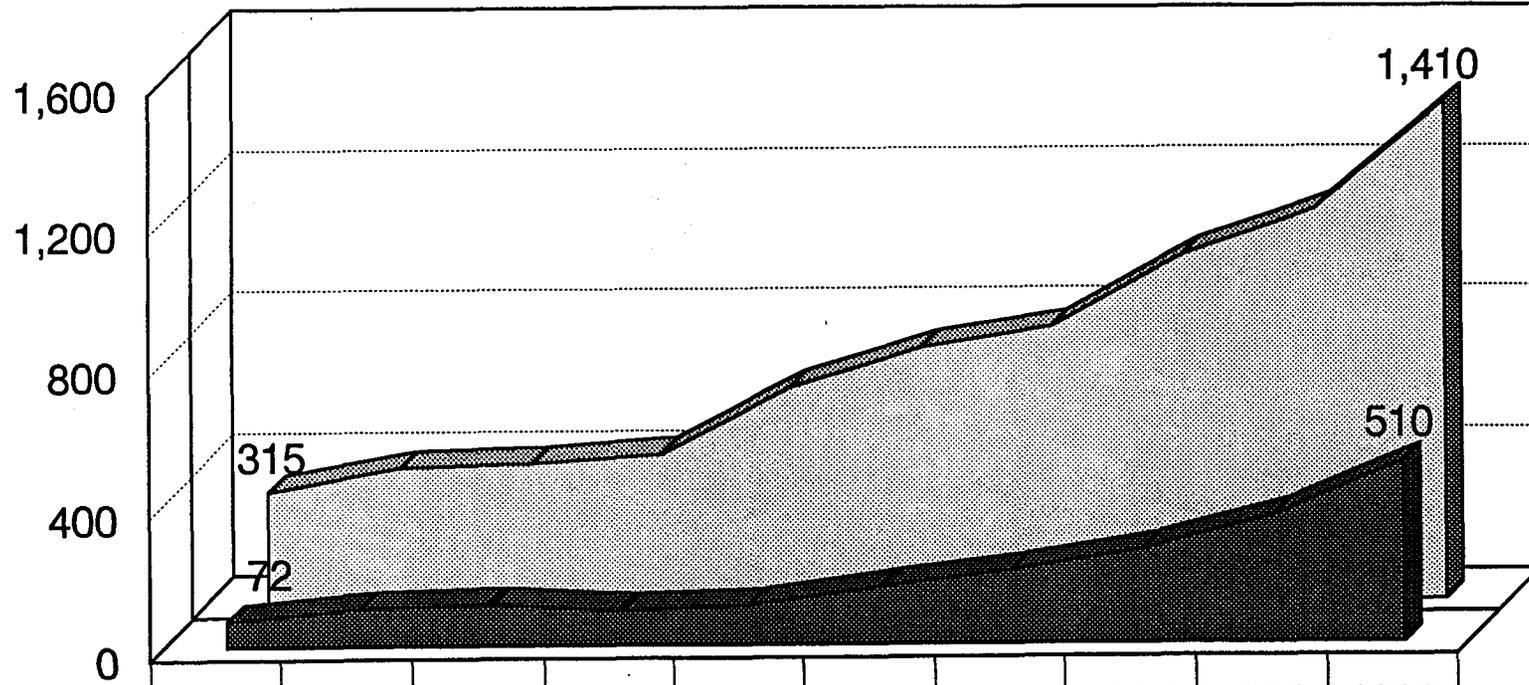
Juvenile Arrests for Aggravated Assault 1984-1993

E-7



Juvenile Arrests for Weapons Violations 1984-1993

Number

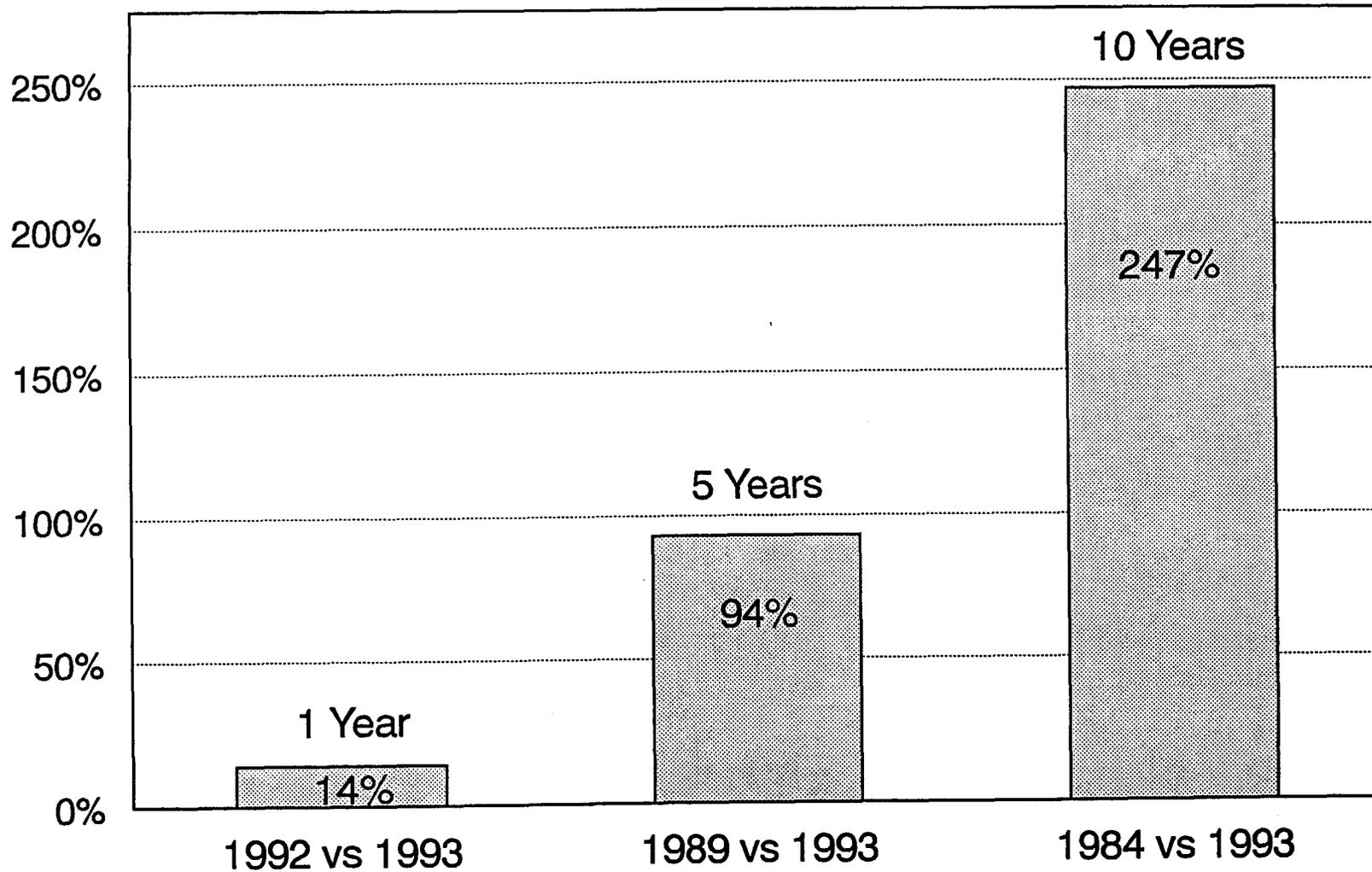


	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993
Under 18	315	382	392	417	602	714	772	974	1,102	1,410
15 & Under	72	106	117	98	112	163	208	264	357	510

■ 15 & Under □ Under 18

Juveniles 15 & Under Arrested For Violent Crime Percent Changes

E-9

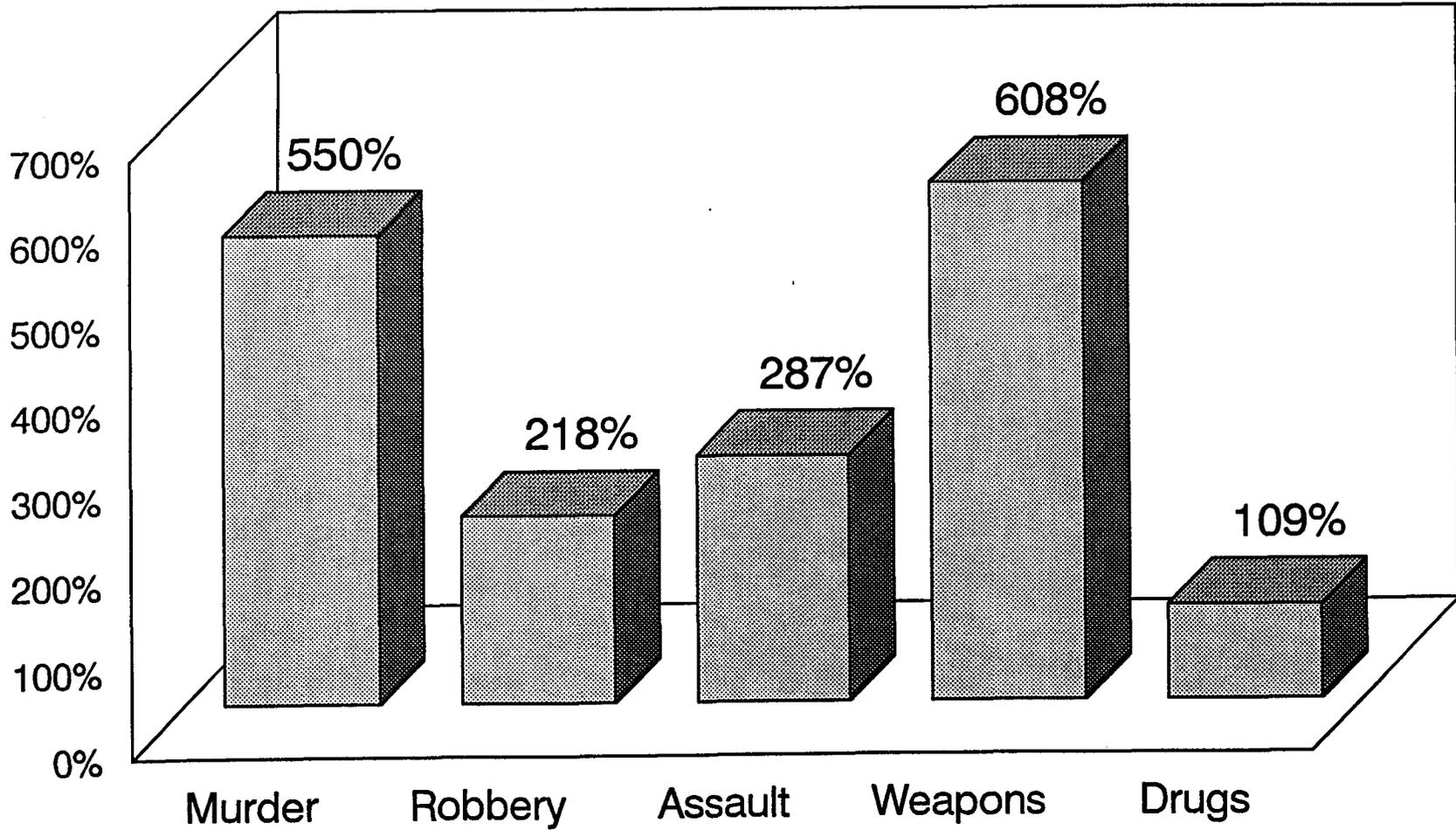


State Bureau of Investigation
Violent Crime includes murder, rape, robbery and aggravated assault.

Juveniles 15 & Under Arrested For Certain Crimes 1984 vs 1993

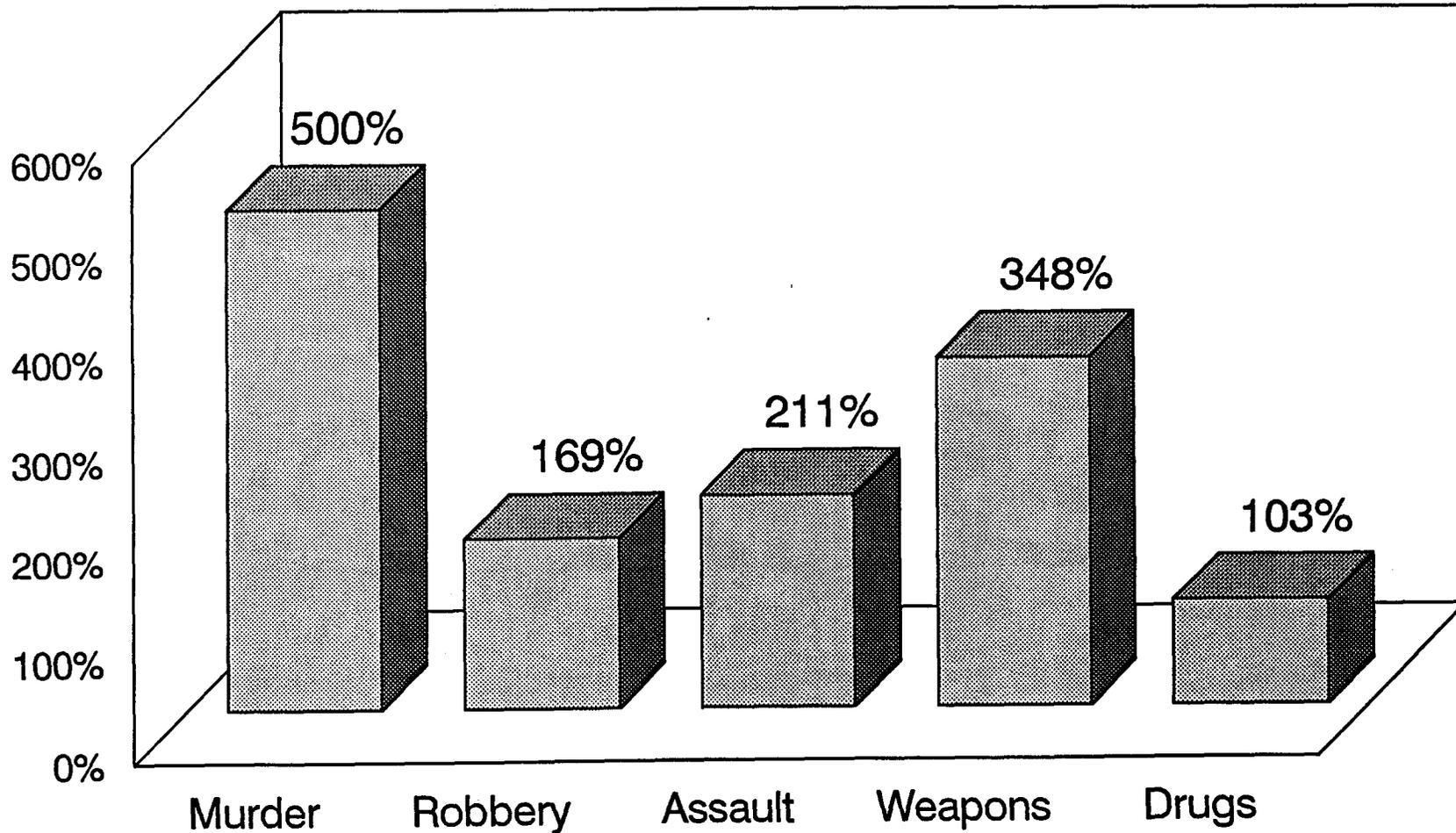
Percent Change

E-10



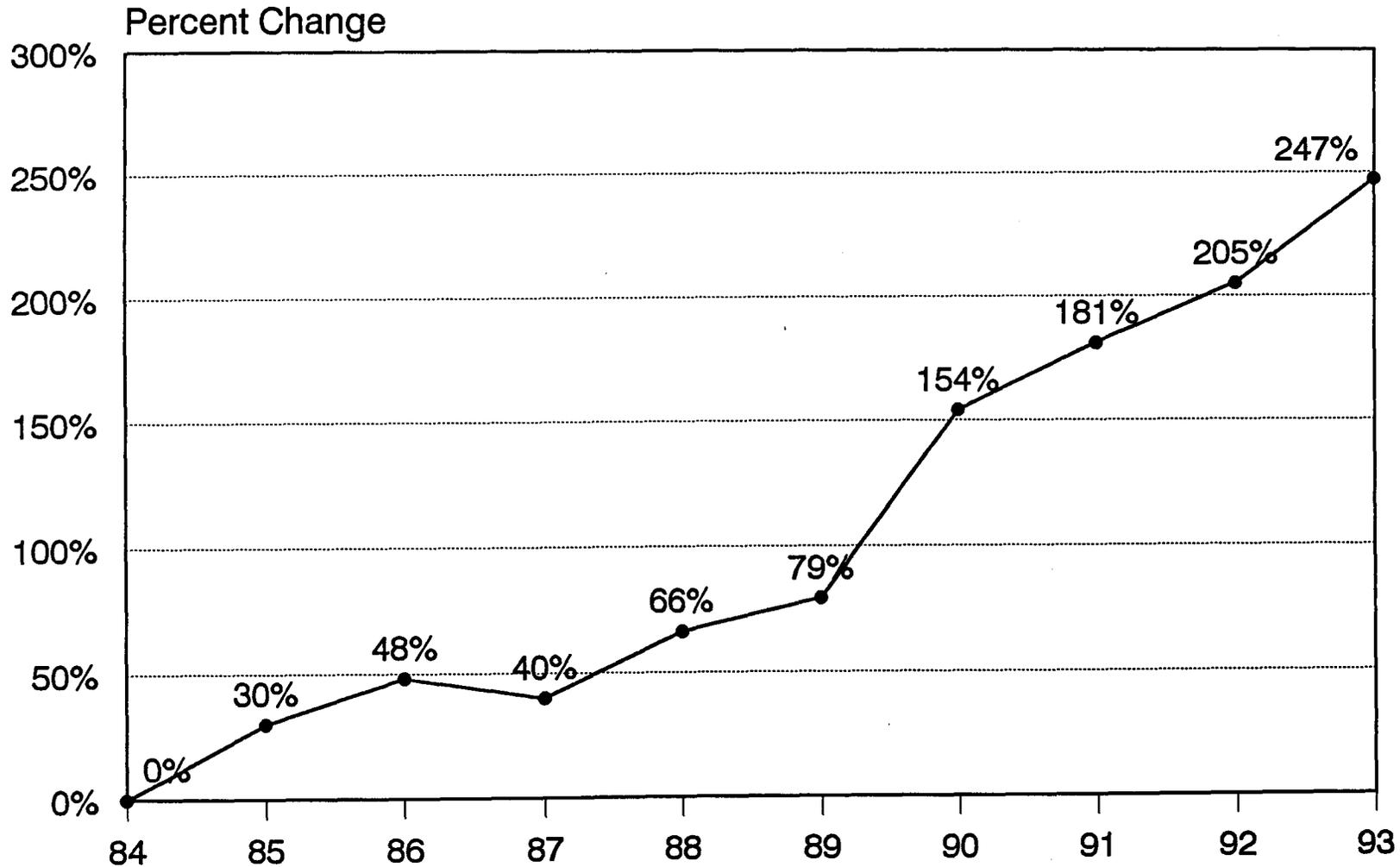
Juveniles Under 18 Arrested For Certain Crimes 1984 vs 1993

Percent Change



E-11

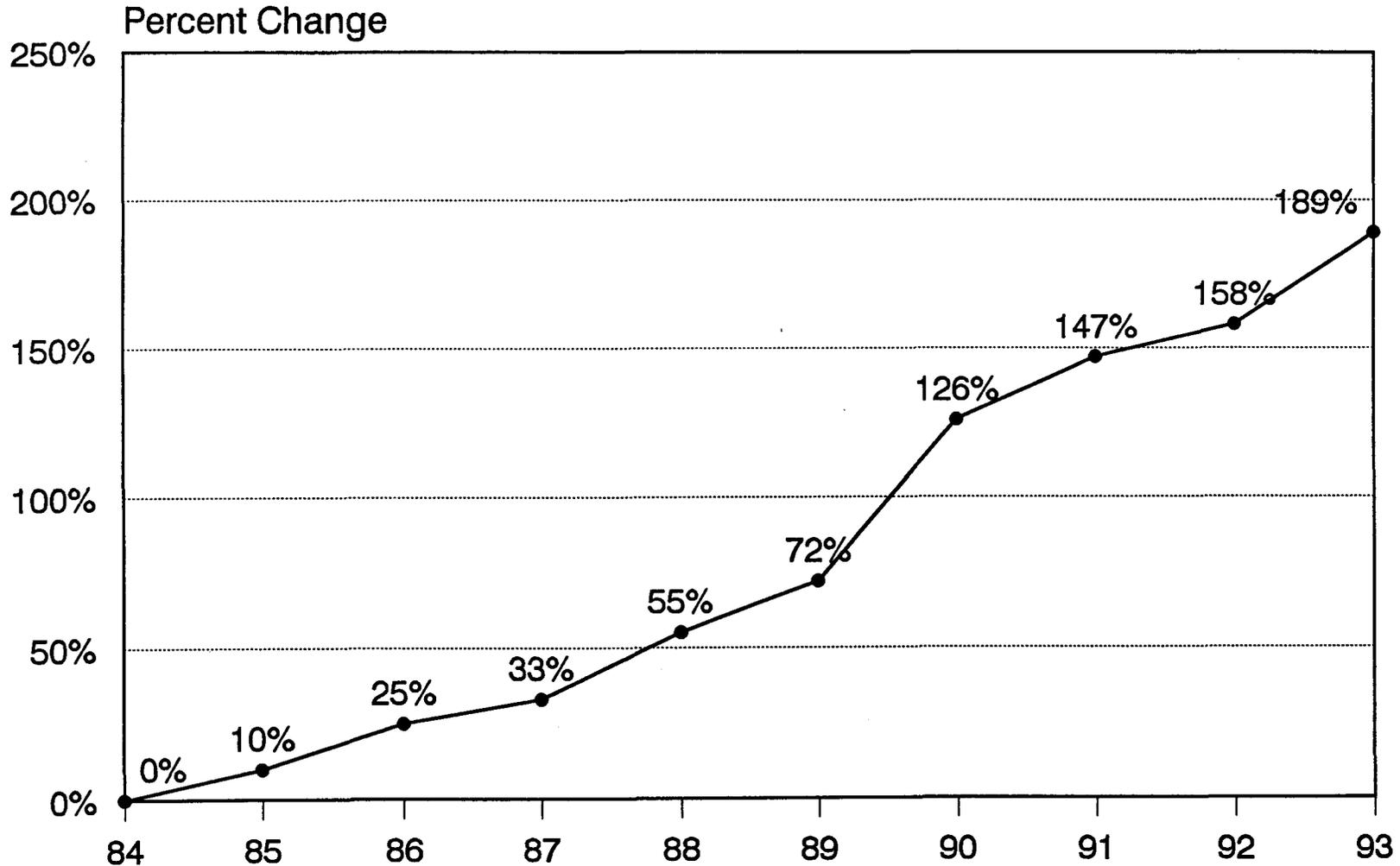
Juveniles 15 & Under Arrested For Violent Crime Cumulative Changes 1984-1993



E-12

State Bureau of Investigation
Violent Crime includes murder, rape, robbery and aggravated assault.

Juveniles Under 18 Arrested For Violent Crime Cumulative Changes 1984-1993

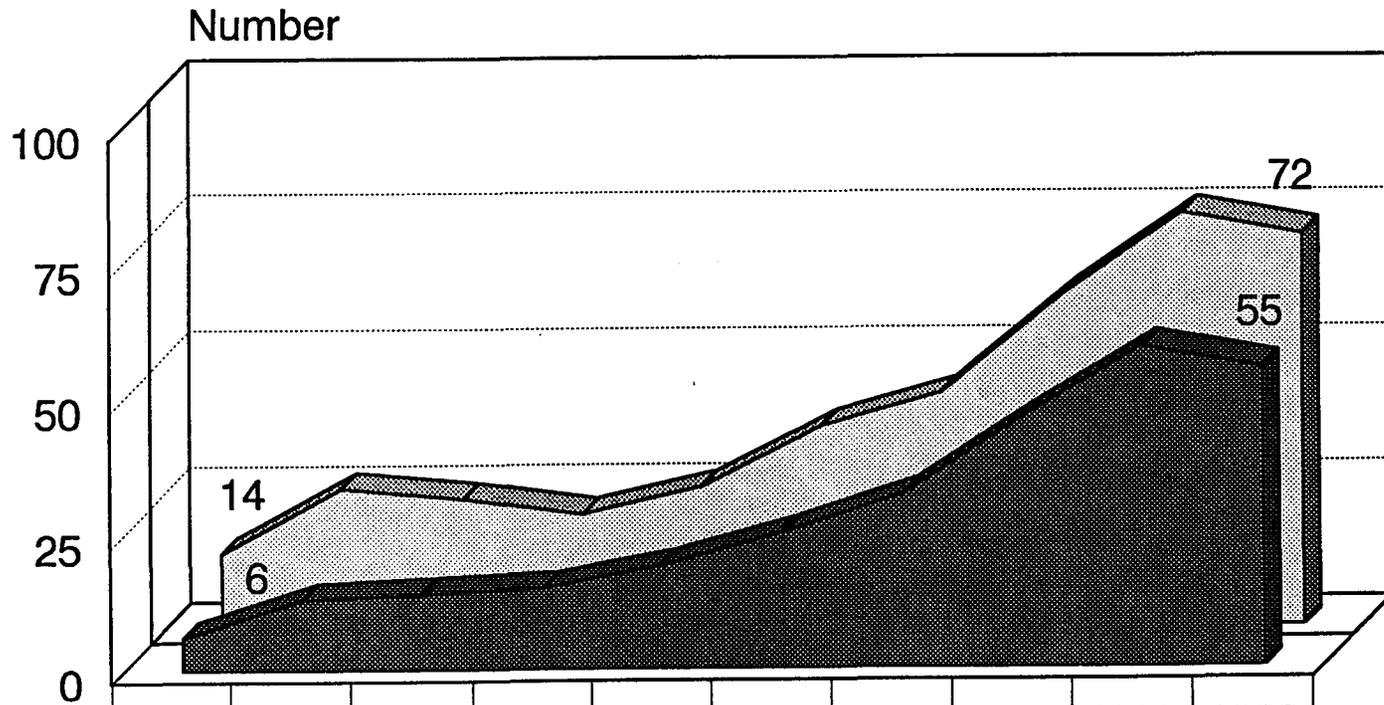


E-13

State Bureau of Investigation
Violent Crime includes murder, rape, robbery and aggravated assault.

Juvenile Offenders* for Murder vs Firearms Use 1984-1993

E-14



	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993
% Distribution**	42.9	50	58.3	71.4	73.1	67.6	74.4	75.4	77.6	76.4
Offenders Under 18	14	26	24	21	26	37	43	61	76	72
Using a Firearm	6	13	14	15	19	25	32	46	59	55

■ Using a Firearm ▨ Offenders Under 18

*Juveniles under the age of 18.

**Percentage of juvenile offenders for murder using a firearm.

**REPORT TO THE JUVENILE CODE STUDY COMMITTEE:
NORTH CAROLINA GENERAL ASSEMBLY**

Submitted by:
Charles W. Dean, Ph.D.
Department of Criminal Justice
University of North Carolina at Charlotte
September 30, 1994

INTRODUCTION

The field of juvenile justice has long needed the level of attention from the judicial, legislative and executive branches of government that it is now receiving. The public is demanding and deserves more protection from violent criminals, juvenile and adult. I want to emphasize three points for you to consider as you approach your task of revising the juvenile code. The first is the wide variation in the seriousness and nature of the delinquency problem among North Carolina counties. While rural-urban differences are diminishing, they are still substantial and the application of the current juvenile code is producing some undesirable results.

The second point, derived from the first, is the wide range of crime seriousness and dangerousness in the population of youth served by the juvenile justice system and the problems that this diversity presents for legislation and programming.

The third is the wide recognition by practitioners and researchers that there are now two distinguishable types of delinquents relative to dangerousness and chronicity. The problem with the research in this area is that it leads to somewhat contradictory conclusions. On one hand, the results indicate that most serious and violent adult offenders begin their criminal careers as juveniles. But on the other hand, they also indicate that most juvenile delinquents do not progress into adult crime (Nagin and Paternoster, 1993 and Samson and Laub, 1993). Below is a brief summary of the research on this dilemma.

THE CURRENT SITUATION

Current juvenile justice practice reflects a century old philosophy that encourages use of the lightest possible touch and diversion from the system whenever possible. This approach flourished and was appropriate when delinquency typically involved minor offenses and delinquent behavior was often confused with status offenses.

Consistent with this approach the current North Carolina Juvenile Code requires the courts to use the least restrictive alternative and to exhaust all appropriate community alternatives before commitment to a training school. For all juveniles in most counties and most juveniles in all counties this appears to have worked quite well. For example, 31 North Carolina counties sent one or no juveniles to training schools in 1990. Twenty-one counties accounted for 450 (61%) of the admissions that year. Even counties with high crime rates keep most juveniles in the community. For example, Mecklenburg county receives approximately 3,000 juveniles at intake each year, adjudicates 500 and commits to training school 30, or one per one hundred of the intake group. These figures reflect the wide variation in the delinquency problem among North Carolina counties.

While current policy seems to have worked for most delinquents in most areas, there has been a sharp increase in violent crime among North Carolina juveniles. Despite a decreasing juvenile population, juvenile arrests for violent crime have increased dramatically. There was a 38% increase in juvenile arrests from 1980 to 1990.

From 1987 to 1990 juvenile arrests for violent crime rose 80% compared with a 48% increase in the overall North Carolina crime rate, demonstrating the disproportionate and phenomenal rise in juvenile violence.

Juvenile violence is not uniform across North Carolina counties. During 1990, the counties of Mecklenburg, Cumberland, and Guilford reported 559, 512, 289 juvenile arrests for violent offenses respectively (Wake county, the second most populous county in the state, reported only 48 juvenile violent arrests). The three counties accounted for over 68% of all violent juvenile arrests in North Carolina that year. Of these 1,117 violent offenses, 90% were for assault or assault with a deadly weapon. The offenders were predominately African-American (72%) and male (80%).

The increase in violence is likely to continue and accelerate in the near future. The baby boom echo generation is upon us and the number of youth in the crime-prone ages will increase sharply. Even if crime rates remain constant, the amount of juvenile crime will increase substantially with a proportionate increase in the need for correctional services. The increase in the rate of juvenile violence, the unequal distribution of this violent behavior among North Carolina counties, and the above mentioned demographic changes, requires a measured and proportionate response by the legislative, judicial, and executive branches of government.

There seems to be a consensus that changes are necessary and significant actions are in progress. In addition to this committee appointed to review and update the juvenile code, the North Carolina legislature has a special legislative sub-committee on the minority male and has mandated a comprehensive study on the Division of Youth Services (DYS). The chief justice has appointed a blue-ribbon committee to examine the judicial system and specified studying the feasibility of a family court.

There is strong public sentiment favoring stronger governmental reaction to criminal offenders. As changes in the statutes governing the juvenile justice system are considered we would like to call your attention to three areas of concern.

1. The Dangers Of A Uniform Solution To A Highly Varied Problem

Any change in the statutes governing the juvenile justice system must account for the uneven distribution of juvenile crime and variations in the application of the current statutes by juvenile justice agencies. The current code provides for early intervention in violent cases (appropriate placement), but application of this part of the code varies widely. There is also wide variation in the definition of what it means to exhaust community based resources. Some smaller counties with low crime rates commit more juveniles than other far larger counties with high crime rates. Sensitivity to appeals in addition to the philosophical bent toward diversion has resulted in some courts focusing more on exhausting community resources than on appropriateness of placement while others are quick to commit a youth for a relatively minor offense with little apparent effort at community based alternatives.

Some of the variation in jurisdictional commitment practices can be accounted for by the fact that the juvenile courts in some North Carolina counties face serious problems of crime control and public safety, while in other counties the courts are able to focus primarily on its traditional role of working with other agencies to provide services. Both approaches are defensible and possible under the current juvenile code but in application there are wide variances. Three types of counties can be identified.

Counties with little delinquency that have need for few if any delinquency programs:

In these counties, when a youth is arrested for even a minor offense, he/she may be committed to a training

school on their first court appearance, which in such cases is the legislatively required least restrictive alternative.

Counties with relatively minor delinquency problems and appropriate community based programs:

In these counties, there is need for some kind of a backup system for youth who refuse to cooperate with the community based programs. Without this backup the integrity and the effectiveness of these programs would be impaired, and there is fear that the delinquency problem might become like the counties below.

Counties with severe delinquency problems and numerous programs:

In these counties, a juvenile offender may well become an adult before he exhausts the available community alternatives. Even violent offenders in these counties are sometimes referred to community programs and continue to threaten their communities. By the time they are committed, if ever, they are so involved in criminal activities that chances for effective rehabilitation are remote. Other community agencies, i.e. schools, law enforcement, question the ability of the juvenile justice system to fulfill its mandate of guarding community safety since youth known to be dangerous are assigned to unsecured community programs.

A by-product of this county diversity is a highly diverse population in both probation and in the Division of Youth Services institutions. On one hand, violent offenders in high crime counties are being placed with minor offenders in community programs that are not appropriate for violent offenders. On the other hand, less serious offenders committed from counties with few delinquency programs are institutionalized with the chronic violent offenders who have worked their way through numerous court appearances before commitment. There are also variations in judicial response to delinquent youth. There will always be philosophical differences among judges and juvenile court counselors whose recommendations guide judicial decisionmaking. Uniformity is not possible and probably not preferable. So, there is variability in offenders in programs and variability among officials about who should be in which programs.

The problem facing this committee is to provide a legislative structure that accounts for variations in the program needs of individual youth and the safety needs of North Carolina communities. The uniform response of institutionalizing adjudicated juveniles from non-uniform settings is fiscally unsound and programmatically counterproductive. The range of programs within DYS needs to be expanded to correspond to the variations in the committed population. Presently we are doing far too much to far too many and not nearly enough to a few at a very high cost both in terms of dollars and community safety.

2. Variation In Seriousness And Dangerousness Among Committed Juveniles

We have been closely involved with the Division of Youth Services for four years conducting research that is relevant to the task of this committee and are in a position to provide information on the seriousness, dangerousness, and risk among committed delinquents. These data were collected as part of research sponsored by the Division of Youth Services and funded by the Office of Juvenile Justice and Delinquency Prevention and the Governor's Crime Commission.

The first project was to develop risk factor scales for the Division of Youth Services. This study used official records from the N.C. State Bureau of Investigation to track for thirty months 1,676 youth released from DYS in 1988 and 1989. Recidivism was measured as a recommitment to training school or as an adult arrest. The rate of recidivism in this study is discussed later.

The second project was to analyze data on minority overrepresentation in ten North Carolina counties using data collected from the files of the juvenile courts in those counties. The first part of the study utilized 1990 cases but

was replicated at the request of the legislatures committee on the minority male using 1993 cases. These two studies provided an opportunity for a close look at the information used to make decisions in these two major parts of the juvenile justice system.

The third project was to improve the records of the Division of Youth Services and implement the risk scale as a part of their decision making process. This included an in depth analysis of DYS youth relative to substance abuse and to child abuse. To implement the risk scale, the risk data were used to divide the group into high, medium, and low risk. Then, these three levels were placed in a matrix with four levels of crime seriousness to produce the following classification system that has been adopted by the Division of Youth Services.

This has been the best town-gown relationship I have experienced during the thirty years that began when, in 1964, while on the faculty of the University of Kentucky, I was Director of Research for the Kentucky Department of Corrections. The DYS administrative staff requested the research and have used the results to improve their decision making process. The data in Table 1 below were presented to the DYS administration and immediately adopted as the basis for their classification system. Youth in Level One are now, just one year later, confined for much longer periods of time in one school that was already being prepared to be a long term care facility. Special attention is being directed toward the less serious, low risk offenders, which, by the way, includes almost all of the females who have long needed this special attention. The Division has utilized these data to benefit the youth committed to its care and the communities from which they come.

TABLE 1

**APPLICATION OF RISK FACTOR CLASSIFICATION MATRIX ON
1988-89 RELEASES
(n=1676)**

OFFENSE SERIOUSNESS	RECIDIVISM RISK LEVEL		
	HIGH	MEDIUM	LOW
1. VIOLENT FELONIES	LEVEL ONE		
	5(0.3%)	50(2.99%)	53(3.16%)
2. NON-VIOLENT FELONIES	LEVEL TWO		LEVEL THREE
	333(19.87%)	301(17.96%)	235(14.02%)
3. MISDEMEANORS	170(10.14%)	190(11.34%)	251(14.98%)
4. MINOR OFFENSES	LEVEL FOUR		LEVEL FIVE
	9(0.54%)	9(0.54%)	10(0.60%)

Note: No Information 13 Cases (0.78%)

These data provide an empirical basis for differentiating among DYS youth relative to crime seriousness,

dangerousness and risk of recidivism. Perhaps equally as important, it provides an empirical look at the range of seriousness of the client population. In the 1988 and 1989 releasee sample, only 108 or 6.45% were incarcerated for violent felony offenses while 639 or 38.14% were institutionalized for misdemeanor level offenses.

The arrest data discussed earlier indicated that juvenile violence has increased substantially in recent years and if so, the 1994 DYS population should be substantially different from the 1988-89 releasee. The profile of the current DYS population presented below portrays the DYS population admitted between January 1-July 31, 1994. These data suggest that the juvenile justice system is responding to the increased violence indicated by the arrest data discussed above. During this seven month period, there were 188 juveniles (29.2%) admitted for violent offenses compared with 6.45% in the earlier sample. The numbers and proportions committed for misdemeanor level offenses has decreased somewhat but not as dramatically as the increase in those committed for violent offenses. There were 176 juveniles (27.4%) committed for misdemeanor level offenses during the first seven months of 1994 compared with 38.14% in the 1988-1989 group (see Table 2).

TABLE 2

**APPLICATION OF RISK FACTOR CLASSIFICATION MATRIX ON
DIVISION OF YOUTH SERVICES ADMISSIONS
JANUARY 1, 1994 TO JULY 31, 1994
(n=642)**

OFFENSE SERIOUSNESS	RECIDIVISM RISK LEVEL		
	HIGH	MEDIUM	LOW
1. VIOLENT FELONIES	22(3.4%)	LEVEL ONE 97(15.1%)	69(10.7%)
2. NON-VIOLENT FELONIES	LEVEL TWO 49(7.6%)	172(26.8%)	LEVEL THREE 57(8.9%)
3. MISDEMEANORS	23(3.6%)	76(11.8%)	59(9.2%)
4. MINOR OFFENSES	LEVEL FOUR		LEVEL FIVE 4(6%)

Two issues must be addressed relative to the large numbers of misdemeanor offenders. First, are these children receiving harsher treatment for a misdemeanor offense than they would if they were adults? Second, with the increased seriousness of felony non-violent offenders in the DYS population, particularly in regards to drug involvement, is it appropriate to incarcerate these minor offenders in institutions with chronic felony offenders. There is wide variation in the nature of delinquency among North Carolina counties and among DYS youth, and there appears to be a need for less severe alternatives within the structure of the Division of Youth Services for those youngsters that the court wants removed from their communities but do not represent a threat to community safety. This would facilitate utilization of the more restrictive and expensive resources to deal more

adequately with chronic and dangerous juvenile offenders. There seems to be strong feelings that now, we are doing too much to too many and not enough to a few.

Some of the inconsistencies in county commitment patterns may result from a lack of clarity in the current code. The focus is on appropriate community resources, but the question of availability is not addressed. If a resource the judge considers appropriate is not available and if the youth is committed to a training school for this reason, the question of equal protection under the law is raised. One youth may be committed because of a lack of resources while another youth, in court for a similar offense, is kept in the community. It has been suggested that aggravating and mitigating factors be used to determine what is an appropriate community placement and whether, as the code states, "the juvenile's behavior constitutes a threat to persons or property in the community."

3. The Risk Of Continuing in Serious Crime After Release From Training School

There is strong debate in the academic branch of the juvenile justice community as to whether delinquency is a transient characteristic of adolescent youth that will pass with time, or the first step in the development of a criminal career. The answer to both questions appears to be "yes" (cf. Patterson et. al., 1989, and Moffitt, 1993). This debate is summarized below:

A. Is Delinquency A First Step Toward An Adult Criminal Career?

There has been considerable research indicating that criminal behavior is a continuous variable. Serious criminals often begin their criminal careers as juvenile delinquents. One researcher (Farrington, 1988) stated:

It seems clear that the courses of adult criminal convictions can be traced back to childhood. The best predictors of convictions at age 21-24 years were convictions at age 17-20 and convictions at age 14-16...The best predictors of convictions at age 14-16 were convictions at age 10-13 and daring behavior at age 8-10. And the best predictors of convictions at age 10-13 were troublesome behaviors at age 8-10 (p.373).

A classic study of a Philadelphia cohort of 9,945 boys indicated that 3,475 (35%) were arrested as adults before their 30th birthday compared with nine percent of a control group not arrested as juveniles. Sixty-nine percent of arrested adults had juvenile records compared with 25% of the non-arrested control group.

One of the major contributions of the Wolfgang study was identification of the chronic offender, known today as the chronic 6 percent (Wolfgang et. al., 1987). The 627 boys arrested 5 times or more represented 18% of the delinquents and 6% of the total sample of 9,945. This group was responsible for 5,305 offenses of 51% of all offenses including 71% of homicides, 73% of rapes, 82% of robberies, and 69% of aggravated assaults.

Accurately identifying this group and incapacitating them (incarceration) could reduce the crime rate without a proportionate increase in the prison population (Blumstein et. al., 1986). This has obvious strong appeal to policymakers and legislators as well as citizens. The goal, then, is to identify these individuals early, incapacitate them and thereby save the community the costs and the pain that results from their criminal acts. (For a pessimistic critique of this question, see Gottfredson and Hirschi, 1990.)

This goal is not easily attained because, while the research can point to group patterns, it has not advanced to the

point where individuals can be identified without unacceptable high levels of false positives and negatives. False positives involve inaccurately labelling juveniles as high risks of becoming criminals, whereas false negatives involve not labelling juveniles as high risks when in fact they do become adult criminals. At this time, chronic offenders cannot be identified until they have begun to age-out of the crime prone years and have already taken their toll on the community (Gottfredson and Hirschi, 1990).

Even though we cannot accurately identify individual chronic offenders at this point, the data described in the above paragraphs suggests that many of our future career criminals are included in the current Division of Youth Services institutional population.

B. Is Delinquency A Problem Of Adolescence Usually Unrelated To Adult Crime?

The same data used above to support the contention that criminality is a continuous process, also indicates that most delinquents do not become adult criminals. In the Wolfgang study, it is equally accurate to say that 6,470 (65%) of the boys arrested as juveniles were not arrested as adults before their 30th birthday. In another study, McCord found that 53% of the serious delinquents had no adult convictions and 10 to 20% of adult criminals had no juvenile record. The above data illustrates the problem of false positives. Since the majority of juvenile delinquents do not progress to adult criminality great care must be taken not to falsely label them. To do so might increase the likelihood of their continued criminality.

The county that receives around 3000 youth each year at intake, brings around 500 before the judge and commits around 30 to training school exemplifies the population of juveniles that, if left alone, will desist in their criminal behavior. There is strong research interest in identifying these desisters. Two events, called "turning points in the development of a criminal career," are employment and marriage to a non-criminal female. These life events build social capital that supports conventional behavior and inhibits deviant behavior. A brush with the law can escalate delinquency involvement because it reduces fear of the justice system. Moving out of the city also helped offenders desist (Samson and Laub, 1993). A considerable body of research has identified a relatively small core of variables associated with continuity of crime. We know what to look for.

C. Recidivism Research Answering The Above Questions

The issue here has to do with the question of continuity of criminal behavior as measured by adult recidivism among DYS releasees. The risk factor study mentioned earlier used the first arrest or juvenile recommitment as an indicator of recidivism. The recidivism rate was 50.72%. We were uncomfortable with this measure. Juveniles are released from youth institutions at the peak crime ages to high crime areas. This may increase the likelihood of their being arrested because of their previous record. For this reason, we reanalyzed the data, excluded juvenile recommitment from the measure of recidivism and used not just arrest, but conviction and incarceration as measures of adult recidivism. The results were extremely significant (see Table 3 below).

TABLE 3

**RECIDIVISM RATES
 BASED ON 1,676 YOUTH RELEASED FROM
 THE NORTH CAROLINA DIVISION OF YOUTH SERVICES IN 1988-1989**

RECIDIVISM MEASURE	FAILURES
ARRESTED	785 (46.8%)
CONVICTED	477 (28.5%)
INCARCERATED	174 (10.4%)

(the above recidivism rates were based on the first adult arrest and the resulting dispositions)

It seems safe to assume that the system filters cases at its various stages. Even allowing for the youth being first offenders in the adult system, attrition in the recidivism rate from arrest through adjudication to incarceration suggests that most of the offenses were not serious enough to result in incarceration. It is interesting to note that the recidivism rate as measured by incarceration is only 10.4%. Of these 174 youths, only 4 (2.3%) were female. Relative to race, 71(40.8%) were white and 103 (59.2%) were nonwhite. Only 13 (7.5%) were Willie M cases. The data do not permit us to compare this group with other research that has identified characteristics of chronic offenders, nor are these data available for other delinquent groups in this state. Herein lies a most serious problem.

On one hand, if a relatively few persistent offenders commit a great proportion of all delinquent acts and then persist as adult criminals, it follows that steps should be taken to incapacitate them for extended periods of time. On the other hand, the fact remains that the vast majority of delinquent youth do not belong in this category. A juvenile code that does not deal specifically with these two groups will fall prey to the power of tradition and inertia, will not protect the community and will continue the damaging mixture of chronic, violent offenders with those who are unlikely to become adult offenders. Your goal is to develop a code that accounts for both groups. The idea of the state taking action that may cause some youth to become more involved in crime is as frightening as the state failing to incapacitate a known dangerous youth. Now we are probably doing both. Failure to achieve this goal can have serious consequences, as the following incident illustrates.

The front page of The Atlanta Constitution (September 3, 1994) reported a situation where an 11 year old rapist was sentenced to 2 years, with the judicial recommendation that he be held in close custody. After only 19 days, on the recommendation of a six person screening committee, he was released to the custody of his aunt. Shortly thereafter, the victim encountered her attacker on the playground of their apartment complex. The girl's parents protested to the governor who immediately fired the Commissioner of Youth Services. The lead editorial that day entitled "State's Sacrificial Lambs" stated the following:

The real failure of Georgia's juvenile system is not that too many kids are getting out of jail. The failure is that there is nowhere to put them but jail. Hundreds are being warehoused in youth prisons; most of them are shoplifters and throwaways, not rapists or murderers. The greatest threat to public safety is the failure to distinguish between youths who need to be in prison and those who can be reformed through some other form of discipline.

The problem can only get worse and it is important to move with deliberate haste but proper caution. The task of this committee is to address this dilemma and protect the community against violent juveniles without exacerbating the problem by treating all juveniles as though they are a threat to the community.

Few concepts have shaken the study of delinquency and the operation of agencies serving delinquents as the discovery of the chronic offender. It has strengthened the position of conservative policymakers who call for a "get tough" approach. Despite legitimate concerns by civil libertarians, juvenile justice agencies have been profoundly influenced. This same problem is being addressed by many other states and a variety of changes are possible. These include, but are not limited to:

- * Expand the provision for waiver to adult court to include chronic juvenile offenders.
- * Handle both adult and juvenile petty offenders in one court and chronic adult and juvenile offenders in another.
- * Increase the age range for non-chronic juvenile offenders to 18 like most other states, but refer all chronic offenders to adult court. (A juvenile three strikes, you are in -prison.)
- * Fixed sentences for chronic juvenile offenders.
- * Mandatory commitment for selected offenses by juveniles.
- * Develop, within the Division of Youth Services, a high security facility for chronic and violent offenders.
- * Create separate rules regarding confidentiality of records for chronic and non-chronic offenders and review confidentiality requirements that prevent collection of information needed to identify this group
- * Clarify the code relative to behavior that constitutes a threat to persons or property in the community and what constitutes appropriate resources that must be exhausted before commitment with aggravating and mitigating circumstances.
- * Begin intensive preventive treatment earlier for multi-problem, high risk youth who, if not provided this treatment, will become chronic offenders.

This is a radical shift in emphasis from acting on the offender to, for a selected few, acting on the offense and the offenders record. It presents complex constitutional issues and will require information not currently available in any consistent and satisfactory form. There will be strong opposing forces to "get tough" on one hand and to insure the constitutionally protected rights of all juveniles on the other.

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APPENDIX G

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The Structured Sentencing Act's Effect on Juvenile Dispositions

I. Language of Juvenile Code.

- A. G.S. 7A-652(c) provides: "In no event shall commitment of a delinquent juvenile be for a period of time in excess of that period for which an adult could be committed for the same act."
- B. The Structured Sentencing Act (SSA), which applies to criminal offenses committed on or after October 1, 1994, made no modifications to the Juvenile Code.

II. Practice under the Fair Sentencing Act (FSA), which applies to offenses committed before October 1, 1994.

- A. G.S. 14-2 provides for the following maximum penalties for felonies by Class: A (death or life imprisonment), B (life imprisonment), C (up to 50 years or life imprisonment), D (up to 40 years), E (up to 30 years), F (up to 20 years), G (up to 15 years), H (up to 10 years), I (up to five years), J (up to three years). These maximums, except for Class A, are repealed under the Structured Sentencing Act.
- B. G.S. 15A-1340.4(f) provides presumptive terms for felonies by Class: C (15 years), D (12 years), E (9 years), F (6 years), G (4 and 1/2 years), H (3 years), I (2 years), J (1 year). These presumptives are not a part of the Structured Sentencing Act.
- C. Generally district court judges or Division of Youth Services (DYS) officials committing a juvenile delinquent to DYS for placement in a training school would use imprisonment maximums provided in G.S. 14-2 to guide them in determining a maximum commitment.

III. There was apparently no discussion of this issue in either Sentencing Commission deliberations or legislative consideration of the Structured Sentencing Act. There is apparently no legislative intent concerning how the Structured Sentencing Act ought to affect juvenile dispositions or training school commitments under G.S. 7A-652(c) of the Juvenile Code.

IV. Possible ways that Structured Sentencing may be interpreted as establishing maximum period of commitment of delinquent juveniles (there are other interpretations; these are the most common).

- A. What is the maximum amount of prison time *any* adult could be sentenced to for this offense? Use far right-hand side of SSA felony punishment chart and maximum table to find maximum.

- B. What is the maximum amount of prison time an adult *with no criminal convictions* may be sentenced to for this offense? Use far left-hand side of SSA felony punishment chart and maximum table to find maximum.
- C. What is the maximum amount of time that an adult *with a similar record of previous convictions* may be sentenced to for this offense? Treat prior adjudications as equivalent to convictions, determine relevant punishment chart block, and use maximum for that block.
- D. What is the maximum amount of time that an adult *with a similar record of previous convictions and similar circumstances surrounding the present offense* may be sentenced to for this offense? Treat prior adjudications as equivalent to convictions, determine relevant punishment chart block, apply aggravating and mitigating factors, and use maximum table for felonies.

V. Examples.

A. Armed Robbery (G.S. 14-87). Class D felony under FSA and SSA.

- 1. FSA maximum for an adult would be 40 years.
- 2. SSA maximum for an adult under approach IV.A. would be 199 months (16 years, 7 months).
- 3. SSA maximum for an adult under approach IV.B. would be 92 months (7 years, 8 months).
- 4. SSA maximums for approaches IV.C. and D. depend upon number of prior convictions and presence or absence of aggravating and mitigating sentencing factors. However, the maximum under either approach would fall between the maximums found by the IV.A. and B. approaches.

B. Assault with a deadly weapon inflicting serious injury (G.S. 14-32). Class H felony under FSA and Class E felony under SSA.

- 1. FSA maximum for an adult would be 10 years.
- 2. SSA maximum for an adult under approach IV.A. would be 98 months (8 years, 2 months).
- 3. SSA maximum for an adult under approach IV.B. would be 47 months (3 years, 11 months).
- 4. SSA maximums for approaches IV.C. and D. depend upon number of prior convictions and presence or absence of aggravating and mitigating sentencing factors. However, the maximum under either approach would fall between the maximums found by the IV.A. and B. approaches.

C. Felony larceny (G.S. 14-72). Class H felony under FSA and SSA.

- 1. FSA maximum for an adult would be 10 years.
- 2. SSA maximum for an adult under approach IV.A. would be 30 months (2 and 1/2 years)

3. SSA maximum for an adult under approach IV.B. would be 10 months. *But note that under SSA an adult falling in this category could not serve an active term initially, because the punishment chart authorizes only sentences of probation with community punishment conditions ("C") or probation with intermediate punishment conditions ("I"). An adult could receive active time only if he or she rejected probation for the active term, or if the person's probation was revoked.*
4. SSA maximums for approaches IV.C. and D. depend upon number of prior convictions and presence or absence of aggravating and mitigating sentencing factors. However, the maximum under either approach would fall between the maximums found by the IV.A. or B. approaches.

The following documents are attached:

1. SSA felony punishment chart,
2. SSA table of minimum and maximum sentences for felony convictions,
3. SSA misdemeanor punishment chart,
4. Chart showing steps required to determine the sentence for misdemeanors under SSA,
5. Chart showing steps required to determine the sentence for felonies under SSA.

**FIGURE A
FELONY PUNISHMENT CHART
(Numbers shown are in months)**

PRIOR RECORD LEVEL

OFFENSE CLASS

	I 0 Pts	II 1-4 Pts	III 5-8 Pts	IV 9-14 Pts	V 15-18 Pts	VI 19+ Pts	
A	Death or Life Without Parole						
B1	A 240-300	A 288-360	A 336-420	A 384-480	A <i>Life Without Parole</i>	A <i>Life Without Parole</i>	DISPOSITION <i>Aggravated Range</i>
	192-240	230-288	269-336	307-384	346-433	384-480	PRESUMPTIVE RANGE
	<i>144-192</i>	<i>173-230</i>	<i>202-269</i>	<i>230-307</i>	<i>260-346</i>	<i>288-384</i>	<i>Mitigated Range</i>
B2	A 135 - 169	A 163 - 204	A 190 - 238	A 216 - 270	A 243 - 304	A 270 - 338	
	108 - 135	130 - 163	152 - 190	173 - 216	194 - 243	216 - 270	
	<i>81 - 108</i>	<i>98 - 130</i>	<i>114 - 152</i>	<i>130 - 173</i>	<i>146 - 194</i>	<i>162 - 216</i>	
C	A 63 - 79	A 86 - 108	A 100 - 125	A 115 - 144	A 130 - 162	A 145 - 181	
	50 - 63	69 - 86	80 - 100	92 - 115	104 - 130	116 - 145	
	<i>38 - 50</i>	<i>52 - 69</i>	<i>60 - 80</i>	<i>69 - 92</i>	<i>78 - 104</i>	<i>87 - 116</i>	
D	A 55 - 69	A 66 - 82	A 89 - 111	A 101 - 126	A 115 - 144	A 126 - 158	
	44 - 55	53 - 66	71 - 89	81 - 101	92 - 115	101 - 126	
	<i>33 - 44</i>	<i>40 - 53</i>	<i>53 - 71</i>	<i>61 - 81</i>	<i>69 - 92</i>	<i>76 - 101</i>	
E	I/A 25 - 31	I/A 29 - 36	A 34 - 42	A 46 - 58	A 53 - 66	A 59 - 74	
	20 - 25	23 - 29	27 - 34	37 - 46	42 - 53	47 - 59	
	<i>15 - 20</i>	<i>17 - 23</i>	<i>20 - 27</i>	<i>28 - 37</i>	<i>32 - 42</i>	<i>35 - 47</i>	
F	I/A 16 - 20	I/A 19 - 24	I/A 21 - 26	A 25 - 31	A 34 - 42	A 39 - 49	
	13 - 16	15 - 19	17 - 21	20 - 25	27 - 34	31 - 39	
	<i>10 - 13</i>	<i>11 - 15</i>	<i>13 - 17</i>	<i>15 - 20</i>	<i>20 - 27</i>	<i>23 - 31</i>	
G	I/A 13 - 16	I/A 15 - 19	I/A 16 - 20	I/A 20 - 25	A 21 - 26	A 29 - 36	
	10 - 13	12 - 15	13 - 16	16 - 20	17 - 21	23 - 29	
	<i>8 - 10</i>	<i>9 - 12</i>	<i>10 - 13</i>	<i>12 - 16</i>	<i>13 - 17</i>	<i>17 - 23</i>	
H	C/I 6 - 8	I 8 - 10	I/A 10 - 12	I/A 11 - 14	I/A 15 - 19	A 20 - 25	
	5 - 6	6 - 8	8 - 10	9 - 11	12 - 15	16 - 20	
	<i>4 - 5</i>	<i>4 - 6</i>	<i>6 - 8</i>	<i>7 - 9</i>	<i>9 - 12</i>	<i>12 - 16</i>	
I	C 6 - 8	C/I 6 - 8	I 6 - 8	I/A 8 - 10	I/A 9 - 11	I/A 10 - 12	
	4 - 6	4 - 6	5 - 6	6 - 8	7 - 9	8 - 10	
	<i>3 - 4</i>	<i>3 - 4</i>	<i>4 - 5</i>	<i>4 - 6</i>	<i>5 - 7</i>	<i>6 - 8</i>	

Note: A - Active Punishment I - Intermediate Punishment C - Community Punishment

Revised: 04-05-94

FIGURE B: MINIMUM AND MAXIMUM SENTENCES

The corresponding maximum sentence for each minimum sentence is shown in the tables below. In each column, the number to the left of the dash represents the minimum sentence (in months) and the number to the right of the dash represents the corresponding maximum sentence (in months). To calculate a maximum sentence when the minimum sentence is 340 months or more, see G.S. 15A-1340.17(e1).

FOR OFFENSE CLASSES B1 THROUGH E

15-27	56-77	97-126	138-175	179-224	220-273	261-323	302-372
16-29	57-78	98-127	139-176	180-225	221-275	262-324	303-373
17-30	58-79	99-128	140-177	181-227	222-276	263-325	304-374
18-31	59-80	100-129	141-179	182-228	223-277	264-326	305-375
19-32	60-81	101-131	142-180	183-229	224-278	265-327	306-377
20-33	61-83	102-132	143-181	184-230	225-279	266-329	307-378
21-35	62-84	103-133	144-182	185-231	226-281	267-330	308-379
22-36	63-85	104-134	145-183	186-233	227-282	268-331	309-380
23-37	64-86	105-135	146-185	187-234	228-283	269-332	310-381
24-38	65-87	106-137	147-186	188-235	229-284	270-333	311-383
25-39	66-89	107-138	148-187	189-236	230-285	271-335	312-384
26-41	67-90	108-139	149-188	190-237	231-287	272-336	313-385
27-42	68-91	109-140	150-189	191-239	232-288	273-337	314-386
28-43	69-92	110-141	151-191	192-240	233-289	274-338	315-387
29-44	70-93	111-143	152-192	193-241	234-290	275-339	316-389
30-45	71-95	112-144	153-193	194-242	235-291	276-341	317-390
31-47	72-96	113-145	154-194	195-243	236-293	277-342	318-391
32-48	73-97	114-146	155-195	196-245	237-294	278-343	319-392
33-49	74-98	115-147	156-197	197-246	238-295	279-344	320-393
34-50	75-99	116-149	157-198	198-247	239-296	280-345	321-395
35-51	76-101	117-150	158-199	199-248	240-297	281-347	322-396
36-53	77-102	118-151	159-200	200-249	241-299	282-348	323-397
37-54	78-103	119-152	160-201	201-251	242-300	283-349	324-398
38-55	79-104	120-153	161-203	202-252	243-301	284-350	325-399
39-56	80-105	121-155	162-204	203-253	244-302	285-351	326-401
40-57	81-107	122-156	163-205	204-254	245-303	286-353	327-402
41-59	82-108	123-157	164-206	205-255	246-305	287-354	328-403
42-60	83-109	124-158	165-207	206-257	247-306	288-355	329-404
43-61	84-110	125-159	166-209	207-258	248-307	289-356	330-405
44-62	85-111	126-161	167-210	208-259	249-308	290-357	331-407
45-63	86-113	127-162	168-211	209-260	250-309	291-359	332-408
46-65	87-114	128-163	169-212	210-261	251-311	292-360	333-409
47-66	88-115	129-164	170-213	211-263	252-312	293-361	334-410
48-67	89-116	130-165	171-215	212-264	253-313	294-362	335-411
49-68	90-117	131-167	172-216	213-265	254-314	295-363	336-413
50-69	91-119	132-168	173-217	214-266	255-315	296-365	337-414
51-71	92-120	133-169	174-218	215-267	256-317	297-366	338-415
52-72	93-121	134-170	175-219	216-269	257-318	298-367	339-416
53-73	94-122	135-171	176-221	217-270	258-319	299-368	
54-74	95-123	136-173	177-222	218-271	259-320	300-369	
55-75	96-125	137-174	178-223	219-272	260-321	301-371	

FOR OFFENSE CLASSES F THROUGH I

3-4	9-11	15-18	21-26	27-33	33-40	39-47	45-54
4-5	10-12	16-20	22-27	28-34	34-41	40-48	46-56
5-6	11-14	17-21	23-28	29-35	35-42	41-50	47-57
6-8	12-15	18-22	24-29	30-36	36-44	42-51	48-58
7-9	13-16	19-23	25-30	31-38	37-45	43-52	49-59
8-10	14-17	20-24	26-32	32-39	38-46	44-53	

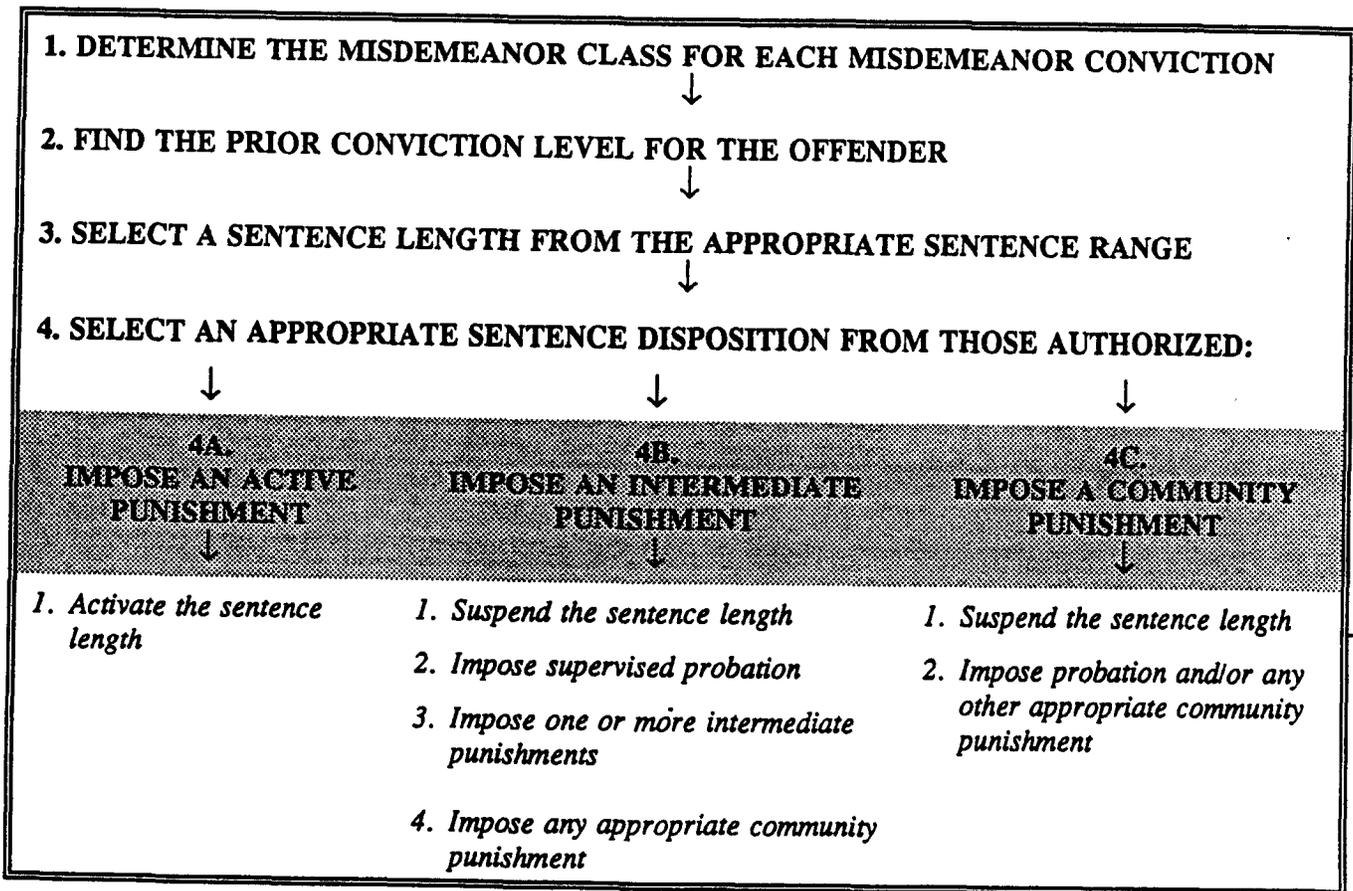
MISDEMEANOR PUNISHMENT CHART

CLASS	PRIOR CONVICTION LEVELS		
	I	II	III
	No Prior Convictions	One to Four Prior Convictions	Five or More Prior Convictions
1	1 - 45 days C	1 - 45 days C/I/A	1 - 120 days C/I/A
2	1 - 30 days C	1 - 45 days C/I	1 - 60 days C/I/A
3	1 - 10 days C	1 - 15 days C/I	1 - 20 days C/I/A

A - Active Punishment I - Intermediate Punishment C - Community Punishment

Cells with slash allow either disposition at the discretion of the judge.

STEPS REQUIRED TO DETERMINE THE SENTENCE FOR MISDEMEANORS*



** Does not apply to Driving While Impaired misdemeanors*

STEPS REQUIRED TO DETERMINE THE SENTENCE FOR FELONIES

